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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF PENNSYLVANIA

- - -

UNITED STATES OF AMERICA : CRIMINAL DOCKET FOR CASE
: NO. 2-18-CR-00100-PTB-1
-VS- :
: MICHAEL ROHANA :
:

- - -

PHILADELPHIA, PA.
APRIL 4, 2019

BEFORE HONORABLE JUDGE PETRESE B. TUCKER

TRIAL - DAY 4

APPEARANCES:

FOR THE GOVERNMENT: U.S. ATTORNEY'S OFFICE
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1 BE ABLE TO ACCOMPLISH TODAY BUT WE WOULD LIKE TO, IF THE
2 SCHEDULE PERMITS, ADDRESS THE JURY ISSUE TODAY BEFORE WE
3 DO CLOSING STATEMENTS.

4 THE COURT: VERY WELL.

5 MS. MACEOIN: THANK YOU.

6 THE COURT: WE CAN BRING THE JURY IN.

7 (JURY IN.)

8 THE COURT: I UNDERSTAND IT'S NICE
9 OUTSIDE. YOU MAY BE SEATED.

10 MS. MACEOIN.

11 MS. MACEOIN: THANK YOU, YOUR HONOR. THE
12 DEFENSE CALLS LARK E. MASON.

13 THE DEPUTY CLERK: PLEASE RAISE YOUR
14 RIGHT HAND AND REMAIN STANDING.

15 (LARK MASON, DEFENSE WITNESS, SWORN.)

16 THE DEPUTY CLERK: CAN YOU STATE AND
17 SPELL YOUR NAME PLEASE?

18 THE WITNESS: LARK, L-A-R-K. MIDDLE
19 INITIAL E. LAST NAME MASON, M-A-S-O-N.

20 DIRECT EXAMINATION

21 BY MS. MACEOIN:

22 Q. GOOD AFTERNOON, MR. MASON.

23 A. HI.

24 Q. HI. CAN YOU PLEASE INTRODUCE YOURSELF TO THE
25 JURY INCLUDING WHAT YOUR CURRENT OCCUPATION IS?

1 A. I AM A CHINESE ART SPECIALIST. BUT I AM ALSO A
2 GENERALIST ACROSS A VARIETY OF DIFFERENT FIELDS. I HAVE
3 BEEN IN THE ART AND ANTIQUE BUSINESS FOR OVER 40 YEARS
4 AND SPECIFICALLY IN THE CHINESE ART BUSINESS SINCE 1986.
5 AND I AM THE OWNER OF AN ART AUCTION HOUSE, LARK MASON
6 ASSOCIATES, AN AUCTION PLATFORM CALLED
7 IGAVELAUCTIONS.COM, AND I HAVE AN ART ADVISORY BUSINESS,
8 LARK MASON ART ADVISORY. AND I AM ENGAGED DAILY IN THE
9 VALUATION OF WORKS OF ART OF ALL DIFFERENT TYPES.

10 Q. DO YOU HAVE ANY CURRENT POSITIONS OR FORMER
11 POSITIONS TEACHING?

12 A. I DO. I HAVE TAUGHT FOR MANY YEARS -- ALTHOUGH
13 NOT NOW, I HAVE RETIRED FROM NEW YORK UNIVERSITY AS AN
14 ADJUNCT PROFESSOR. BUT I TAUGHT CLASSES THERE RANGING
15 FROM WESTERN ART HISTORY TO CHINESE ART. SEMINARS AND
16 MORE RECENTLY OVER THE LAST DECADE, ART AUCTIONS AND
17 MARKET. I HAVE TAUGHT AT PARSONS SCHOOL OF DESIGN.
18 I'VE TAUGHT AT NEW YORK SCHOOL OF INTERIOR DESIGN. I
19 HAVE TAUGHT AT A LOT OF DIFFERENT INSTITUTIONS AROUND
20 THE COUNTRY AND GIVEN TALKS AT A LOT OF MUSEUMS AND
21 OTHER LOCATIONS. I TEACH COURSES FOR THE APPRAISERS
22 ASSOCIATION OF AMERICA AND HAVE BEEN VERY INVOLVED IN
23 EDUCATION FOR A LONG TIME.

24 Q. ARE YOU A CURRENT MEMBER OF THE APPRAISERS
25 ASSOCIATION OF AMERICA?

1 A. I AM. I AM THE FIRST VICE PRESIDENT OF THE
2 ASSOCIATION.

3 Q. AND HOW LONG HAVE YOU BEEN A MEMBER OF THE
4 APPRAISERS ASSOCIATION OF AMERICA?

5 A. OH, GOSH. I DON'T EVEN KNOW, OVER TEN YEARS.

6 Q. AND ARE YOU FAMILIAR WITH WHAT I AM GOING TO
7 TERM USPAP?

8 A. I AM. UNIFORM STANDARDS OF PROFESSIONAL
9 APPRAISAL PRACTICE.

10 Q. THANK YOU.

11 MS. MACEOIN: YOUR HONOR, I
12 PROFFER -- OH, THERE'S A COUPLE OF OTHER THINGS I WANT
13 TO ASK YOU.
14 BY MS. MACEOIN:

15 Q. I UNDERSTAND TOO, THAT YOU WERE ON THE SHOW
16 ANTIQUES ROADSHOW; IS THAT CORRECT?

17 A. I HAVE BEEN ON IT SINCE THE SERIES INCEPTION IN
18 1986 AND WE BEGIN FILMING AGAIN IN APRIL.

19 Q. AND FOR MEMBERS OF THE JURY THAT DON'T KNOW, CAN
20 YOU BRIEFLY DESCRIBE THAT SHOW?

21 A. IT'S THE TOP-RATED TELEVISION SHOW ON PBS AND
22 HAS BEEN FOR MANY, MANY YEARS. AND IT DEALS WITH PEOPLE
23 WHO OWN WORKS OF ART AND ARE TRYING TO FIGURE OUT WHAT
24 THEY ARE. SO WE HELP DEMYSTIFY THAT FOR THE AVERAGE
25 PERSON. AND WE TRAVEL AROUND THE COUNTRY AND WE HOST

1 EVENTS AT DIFFERENT LOCATIONS.

2 Q. AND HAVE YOU, IN YOUR PROFESSIONAL CAPACITY,
3 EVER BEEN CONTACTED OR CONSULTED BY EITHER THE FBI OR
4 OTHER GOVERNMENT ENTITIES FOR YOUR EXPERTISE IN THIS
5 AREA?

6 A. YES.

7 Q. THANK YOU.

8 MS. MACEOIN: YOUR HONOR, I PROFFER LARK
9 E MASON AS AN EXPERT IN CHINESE -- APPRAISALS OF CHINESE
10 ART.

11 THE COURT: ANY QUESTIONS?

12 MS. NEWTON: NO, YOUR HONOR. NO
13 OBJECTION.

14 THE COURT: THE COURT WILL ACCEPT HIM AS
15 AN EXPERT.

16 MS. MACEOIN: THANK YOU.

17 BY MS. MACEOIN:

18 Q. MR. MASON, ARE YOU FAMILIAR WITH THE TERRACOTTA
19 WARRIORS OF THE FIRST EMPEROR?

20 A. YES.

21 Q. AND CAN YOU BRIEFLY EXPLAIN, BRIEFLY, WHAT THE
22 MAGNITUDE OF THAT SITE IS?

23 A. IT'S ONE OF THE MOST IMPORTANT HISTORIC SITES IN
24 CHINA AND IT INVOLVES THOUSANDS OF FIGURES THAT WERE
25 CREATED FOR THE EMPEROR QIN SHI HUANG IN THE SECOND

1 CENTURY B.C. YOU HAVE THE MAUSOLEUM AND THEN YOU HAVE
2 DIFFERENT PITS THAT ARE COMPOSED OF GUARDIAN FIGURES
3 THAT ARE OVER LIFE-SIZE, MADE IN TERRACOTTA, AND THEY
4 HAVE INDIVIDUALIZED FEATURES, BUT THEY WERE PRINCIPALLY
5 MADE IN MOLDS.

6 Q. HAVE YOU BEEN TO THE SITE IN XI'AN?

7 A. I HAVE. I HAVE BEEN TWICE, BOTH TIMES
8 PROFESSIONALLY. THE FIRST TIME WAS THROUGH MY COMPANY
9 THAT EMPLOYED ME, SOTHEBY'S, WHERE I WORKED FOR ALMOST
10 25 YEARS. AND THE SECOND TIME WAS PART OF MORE OF AN
11 OFFICIAL DELEGATION, WHERE I WAS HOSTED BY THE -- I
12 THINK IT WAS THE CULTURAL RELICS BUREAU OF SHAANXI AND
13 THE XI'AN GROUP. SO I ACTUALLY HAD AN OFFICIAL PHOTO
14 TAKEN AT A PLATFORM THAT WAS DOWN IN ONE OF THE PITS
15 WITH ALL OF THE SENIOR MEMBERS OF THAT GROUP. AND THAT
16 WAS IN THE EARLY 90'S.

17 Q. THANK YOU. NOW, YOU ARE FAMILIAR WITH THIS
18 CASE, CORRECT? WITH THE UNITED STATES VERSUS MICHAEL
19 ROHANA, CORRECT?

20 A. I AM.

21 Q. OKAY. AND YOU WERE CONTACTED BY ME AND MY
22 OFFICE TO RETAIN YOUR SERVICES, CORRECT?

23 A. YES.

24 Q. AND WHAT IS THE HOURLY RATE THAT YOU ARE
25 CONTRACTED WITH MY OFFICE?

1 A. IT'S \$350 AN HOUR.

2 Q. IS THAT YOUR STANDARD RATE FOR THESE TYPES OF
3 APPRAISALS?

4 A. IT IS.

5 Q. THANK YOU. AND YOU DID REVIEW SOME
6 DOCUMENTATION AT OUR REQUEST AND YOU DRAFTED A REPORT;
7 IS THAT CORRECT?

8 A. I DID.

9 MS. MACEOIN: I WOULD LIKE TO MARK AS
10 DEFENSE EXHIBIT NUMBER 18 THE FAIR MARKET VALUE
11 APPRAISAL REPORT FOR THE TERRACOTTA CAVALRY THUMB,
12 DRAFTED BY LARK MASON.

13 AND WITH PERMISSION, IF I COULD JUST SHOW
14 IT TO THE WITNESS AND TO BRING IT UP ON THE SCREEN FOR
15 HIM.

16 BY MS. MACEOIN:

17 Q. DO YOU HAVE A COPY OF YOUR REPORT, MR. MASON?

18 A. I DO HERE. SHOULD I OPEN IT?

19 Q. YOU CAN EITHER REFER TO THE SCREEN OR IF IT IS
20 EASIER TO REFER TO THE HARD COPY.

21 IS THIS IS THE COVER PAGE OF YOUR REPORT?

22 A. YES, IT IS. I MAY DO THE COPY BECAUSE I CAN'T
23 SEE AS CLEARLY.

24 Q. WHICHEVER IS EASIER.

25 A. OKAY.

1 Q. AND THIS IS A REPORT THAT IS APPROXIMATELY 22
2 PAGES LONG; IS THAT CORRECT?

3 A. YES, THAT'S TRUE.

4 Q. AND IN THIS REPORT, WHAT WAS IT -- WHAT WAS THE
5 PURPOSE OF THIS REPORT FROM YOUR UNDERSTANDING WITH
6 CONTRACTING WITH MY OFFICE?

7 A. IT WAS TO DETERMINE THE VALUE OF THE THUMB WHICH
8 CAME FROM ONE OF THE CAVALRYMAN FIGURES --

9 Q. OKAY.

10 A. -- IN THE TERRACOTTA ARMY.

11 Q. IN THIS REPORT ON PAGE 10, YOU TALK ABOUT THE
12 FAIR MARKET VALUE OR THE MARKET VALUE OF THIS THUMB,
13 CORRECT?

14 A. YES.

15 Q. OKAY.

16 A. I GO THROUGH THE BASIS OF HOW THAT IS
17 DETERMINED.

18 Q. SO BEFORE WE GET THERE, YOU ARE AWARE THAT IT'S
19 ILLEGAL TO POSSESS OR OWN OR SELL ANY PART OF A
20 TERRACOTTA WARRIOR; IS THAT CORRECT?

21 A. YES.

22 Q. SO WHEN YOU TALK ABOUT FAIR MARKET VALUE, IS IT
23 POSSIBLE THAT ANY PART OF A TERRACOTTA WARRIOR COULD BE
24 SOLD IN THE UNITED STATES?

25 A. NO.

1 Q. SO I WOULD LIKE TO SHOW YOU A COUPLE OF
2 PHOTOGRAPHS.

3 MS. MACEOIN: IF WE CAN BRING UP D 0075
4 JUST FOR THE WITNESS, PLEASE.

5 BY MS. MACEOIN:

6 Q. DO YOU RECOGNIZE THAT?

7 A. I DO.

8 Q. OKAY.

9 MS. MACEOIN: AND CAN WE SHOW THAT TO THE
10 JURY? I'M SORRY, TO MARK -- I WOULD RESPECTFULLY LIKE
11 TO MARK AND MOVE THIS PHOTOGRAPH AS D 18 AND SHOW IT TO
12 THE JURY?

13 THE COURT: IT'S ALREADY MARKED.

14 MS. MACEOIN: OH, IT'S ALREADY D 16, MY
15 APOLOGIES.

16 WILL YOU PUBLISH THAT TO THE JURY?

17 BY MS. MACEOIN:

18 Q. DO YOU RECOGNIZE THIS ITEM?

19 A. I DO.

20 Q. WHAT IS IT?

21 A. IT'S THE DIGIT, THE THUMB THAT WAS TAKEN.

22 Q. FROM?

23 A. FROM THE TERRACOTTA FIGURE, THE CAVALRYMAN.

24 Q. AND YOUR SERVICES WERE RETAINED EVALUATE THE
25 FAIR MARKET VALUE OF THAT, CORRECT?

1 A. YES.

2 Q. I WOULD LIKE TO SHOW YOU A FEW OTHER
3 PHOTOGRAPHS.

4 CAN WE BRING UP WHAT HAS BEEN PREVIOUSLY
5 BEEN MARKED AS GOVERNMENT EXHIBIT 14, WHICH IS 0052.
6 BY MS. MACEOIN:

7 Q. IT WILL BE ON THE SCREEN IN FRONT OF YOU.
8 DO YOU RECOGNIZE THAT IMAGE?

9 A. I DO.

10 Q. IS THAT THE CAVALRYMAN?

11 A. YES.

12 Q. OKAY. LOOKING AT THAT PHOTOGRAPH, AND KNOWING
13 YOUR -- FIRST OF ALL, WHAT IS YOUR UNDERSTANDING OF THE
14 CONDITION OF ALL OF THE ITEMS FOUND IN THE TOMBS IN
15 XI'AN?

16 A. WELL, THEY WERE FRAGMENTARY BECAUSE OF
17 CONSTRUCTION OF THE TOMB WAS SUCH THAT IT EMPLOYED
18 ORGANIC MATERIAL, WOOD BEAMS. I MEAN, IT WAS BASICALLY
19 A HOUSE THAT WAS SUBTERRANEAN, ON WHICH ON THE TOP WAS A
20 TILE ROOF. AND OVER TIME, THERE IS ALWAYS INCURSIONS OF
21 WATER AND OTHER THINGS THAT HAPPEN, AND WHEN THE ROOF
22 COLLAPSES, THAT FALLS UPON THE TERRACOTTA -- IN THIS
23 CASE FIGURES, BUT WHATEVER HAPPENS TO BE IN THERE. AND
24 THOSE ARE OFTEN VERY BROKEN. IN FACT, THE VAST MAJORITY
25 OF THE TIME THEY ARE BROKEN AND FRAGMENTARY AND IN MANY

1 CASES COMPLETELY DESTROYED.

2 Q. AND THIS PARTICULAR -- LOOKING AT THIS IMAGE
3 HERE, AND I HAVE OTHER PHOTOGRAPHS TO SHOW YOU AS WELL,
4 CAN YOU TELL FROM LOOKING AT THIS WHETHER THIS HAS BEEN
5 REPAIRED OR RESTORED?

6 A. WELL, I HAVE A DISTINCTION BETWEEN REPAIRED AND
7 RESTORED. SO THE DISTINCTION IS, RESTORATION IS
8 RETURNING SOMETHING BACK TO THE ORIGINAL APPEARANCE,
9 WHICH INTRODUCES NEW MATERIAL IN THAT PROCESS. REPAIR
10 IS USING THE ORIGINAL MATERIAL THAT'S THERE TO JUST
11 INTERLOCK IT AGAIN. SO IT'S JUST USING AN ADHESIVE THAT
12 TIES IT TOGETHER.

13 Q. SO FOR A LAYMAN'S PURPOSE, USING GLUE OR AN
14 ADHESIVE TO PUT SOMETHING BACK ON IS A REPAIR?

15 A. IS A REPAIR.

16 Q. AND IS IT --

17 A. AND THIS IS A COMMONLY-USED KIND OF
18 UNDERSTANDING DEFINITION WITHIN THE MARKET.

19 Q. CAN YOU, LOOKING AT THAT IMAGE ON YOUR SCREEN,
20 TELL WHETHER THERE HAS BEEN EITHER ANY RESTORATION OR
21 REPAIR TO THE CAVALRYMAN?

22 A. I SEE WHAT APPEARS TO BE A LOT OF RESTORATION,
23 WHERE THERE IS SOME BIG JAGGED SECTIONS THROUGH THE
24 SKIRT, THE LOWER PART OF THE ARMOR.

25 Q. I AM GOING TO SHOW YOU A DIFFERENT PICTURE HERE.

1 A. AND ABOVE THE KNEES, AND LOWER LEGS.
2 THERE'S -- ANY TIME YOU SEE THIS DISCOLORED MATERIAL.
3 WHAT HAPPENS IS YOU MAY START OUT WITH THE SAME KIND OF
4 CLAY BUT IT AGES DIFFERENTLY IN TERMS OF HOW SUNLIGHT
5 AND HEAT AND EVERYTHING ELSE AFFECTS IT. SO EVENTUALLY,
6 EVEN THOUGH YOU START OUT MAKING IT LOOK THE SAME, IT
7 TURNS A DIFFERENT COLOR OVER TIME TYPICALLY, AND THAT'S
8 WHY IT BECOMES APPARENT. AND THESE FIGURES WERE
9 RESTORED AND REPAIRED OVER A LONG PERIOD OF TIME. SO A
10 LOT OF THIS IS BECOMING MORE VISIBLE.

11 Q. THANK YOU.

12 MS. MACEOIN: THIS -- I WOULD LIKE TO
13 SHOW WHAT IS D -- WHAT HAS BEEN PREVIOUSLY MARKED AS
14 GOVERNMENT EXHIBIT 9, WHICH FOR US IS D 129.

15 ANOTHER IMAGE WILL APPEAR ON YOUR SCREEN.

16 BY MS. MACEOIN:

17 Q. DO YOU RECOGNIZE THAT?

18 A. YES.

19 Q. OKAY. CAN YOU POINT OUT IN THAT PICTURE, FOR
20 THE JURY, AREAS WHERE IT IS EVIDENT THAT'S THERE HAS
21 BEEN RESTORATION OR REPAIR?

22 A. YEAH. THROUGH THE LOWER SKIRT WHERE YOU HAVE
23 THE PLEATS, YOU CAN SEE THIS KIND OF STYLIZED Y THAT
24 STARTS AT THE MIDSECTION AND GOES ACROSS AND THEN IT
25 CURVES UP TOWARD THE BELT. AND ON THE FAR END OF THE Y

1 AT THE POINT GO DOWN ON THE SIDE, YOU CAN SEE THAT
2 THERE'S QUITE A LOT OF MATERIAL THAT IS DISCOLORED.
3 THAT LOOKS TO ME TO BE INDICATIONS OF FRAGMENTARY PIECES
4 THAT WERE PUT BACK TOGETHER.

5 UNDERNEATH THAT Y, WHERE IT GOES DOWN TO
6 FORM THE BOTTOM OF THE FORK, THERE IS ALSO SUBSIDIARY
7 KIND OF AREAS THAT LOOP UP AND GO STRAIGHT ACROSS AND
8 JAGGED GOING DOWN WITHIN THE Y ITSELF. ABOVE THAT,
9 THERE IS DISCOLORATION THAT TO ME WOULD INDICATE THAT
10 THERE IS LIKELY INTRODUCTION OF, YOU KNOW, SOME SORT OF
11 NEW MATERIAL, FILL MATERIAL.

12 SO IT'S USUALLY A COMBINATION OF
13 RESTORATION AND REPAIR WHEN YOU HAVE SOMETHING THAT HAS
14 HAD TRAUMATIC DAMAGE TO IT.

15 Q. AND IS THERE ANYTHING ON THE ARM OF THE WARRIOR
16 THAT INDICATES ANYTHING TO YOU IN THAT PHOTOGRAPH?

17 A. AGAIN, YOU CAN SEE ON THE PROPER LEFT ARM,
18 PROPER MEANS AS I WOULD BE THE WARRIOR.

19 Q. RIGHT.

20 A. RIGHT. SO THE PROPER LEFT ARM, YOU CAN SEE THAT
21 DISCOLORED AREA GOING STRAIGHT DOWN, THAT KIND OF A TAN
22 COLOR, THAT'S VERY LIKELY FILL MATERIAL. THERE VERY
23 LIKELY IS FILL MATERIAL THROUGH THE MIDBODY, WHERE THE
24 ARMOR PLATES ARE. YOU CAN SEE A LOT OF DISCOLORED
25 AREAS. AND ON THE PROPER RIGHT ARM, SIMILAR KIND OF

1 PATCHINESS THAT USUALLY INDICATES -- AND THERE IS ALSO
2 SOME KIND OF SMOOTHNESS TO THE MODELING THAT USUALLY
3 INDICATES THAT THERE HAS BEEN RESTORATION.

4 Q. I AM GOING TO SHOW YOU ONE OTHER PHOTOGRAPH OF
5 THIS STATUE.

6 MS. MACEOIN: THIS HAS NOT PREVIOUSLY
7 BEEN INTRODUCED.

8 CAN YOU PLEASE SHOW TO THE WITNESS, D 71.
9 BY MS. MACEOIN:

10 Q. IS THERE AN IMAGE THERE ON THE SCREEN?

11 A. YES.

12 Q. AND DO YOU RECOGNIZE THIS IMAGE?

13 A. YES.

14 Q. IS THIS THE TERRACOTTA WARRIOR -- I'M SORRY, THE
15 CAVALRYMAN AND THE HORSE?

16 A. YES.

17 MS. MACEOIN: I WOULD LIKE PERMISSION TO
18 PUBLISH THIS TO THE JURY AS D 19, YOUR HONOR.

19 THE COURT: YES.

20 (DEFENSE EXHIBIT 19 ADMITTED INTO
21 EVIDENCE.)

22 BY MS. MACEOIN:

23 Q. AND HERE WE HAVE A DIFFERENT ANGLE.

24 IS THERE ANYTHING ON THE HORSE THAT
25 INDICATES SOME SORT OF REPAIR OR RESTORATION?

1 A. YEAH. YEAH. IT HAS BEEN OFF AT THE NECK. IT
2 LOOKS LIKE HALF OF THE HORSE HEAD, RIGHT BETWEEN THE
3 EYES AND THE NOSTRIL, HAS BEEN BROKEN IN HALF. AGAIN,
4 THIS IS A VISUAL. IF I WAS HANDLING IT AND WORKING WITH
5 IT I WOULD BE ABLE TO GIVE YOU A VERY DEFINITIVE REPORT.

6 Q. CERTAINLY.

7 A. SO THIS IS JUST FROM A TRAINED EYE. AND THEN
8 BELOW THAT, GOING FROM THE NECK DOWN THROUGH THE
9 MUSCULAR PART OF THE FRONT LEGS, THERE SEEMS TO HAVE
10 BEEN A NUMBER OF FRAGMENTS THERE.

11 Q. THANK YOU. NOW, ALL OF THESE ITEMS, BURIAL
12 ITEMS, ARE COMMONLY REFERRED TO AS MINGQI?

13 A. MINGQI, YES. SPIRIT OBJECTS.

14 Q. AND SO COULD YOU EXPLAIN TO THE LADIES AND
15 GENTLEMEN OF THE JURY, WHAT IS THE DIFFERENCE BETWEEN
16 MINGQI AND OBJECTS WHICH ARE MEANT TO BE VENERATED?

17 A. WELL, MINGQI WERE MEANT TO CONVEY THE ESSENCE OF
18 THOSE OBJECTS WITH THE DECEASED PERSON TO THE NEXT
19 WORLD. SO EARLY IN CHINESE HISTORY, AND AS IN A LOT OF
20 CULTURES, WHAT THEY WOULD ACTUALLY DO IS PUT LIVING
21 ANIMALS AND THEY WOULD PUT THEIR RETAINERS AND THEIR
22 WIVES WOULD ALL GO INTO THE TOMB, WHETHER THEY WANTED TO
23 GO IN THE TOMB OR NOT. AND PEOPLE DIDN'T -- EVENTUALLY
24 DECIDED THAT WAS A TERRIBLE IDEA. WHY DON'T WE
25 REPRESENT THOSE PEOPLE, THE SERVANTS, THE ANIMALS, THOSE

1 THINGS IN CLAY INSTEAD OF THE ACTUAL OBJECTS? AND SO
2 IT'S BECAUSE IT'S THE ESSENCE THAT GOES INTO THE TOMB
3 THAT GOES TO THE NEXT WORLD. IT'S NOT THE ACTUAL
4 PHYSICAL THING THAT GOES INTO THE TOMB.

5 Q. AND IS XI'AN THE ONLY SITE THAT THERE IS A
6 BURIAL TOMB IN CHINA?

7 A. NO. THERE ARE TOMBS ALL THROUGHOUT CHINA AND,
8 YOU KNOW, I DON'T KNOW THAT ANYBODY HAS ESTIMATED
9 EXACTLY HOW MANY, BUT CHINA HAD HUNDREDS AND MILLIONS OF
10 PEOPLE DURING THE MING DYNASTY AND EARLIER DYNASTIES.
11 THERE WERE LITERALLY MILLIONS OF PEOPLE, SO THEY HAD A
12 VERY LARGE RULING CLASS AND ALL OF THESE PEOPLE BELIEVED
13 THAT THERE WAS ANOTHER WORLD AFTER THIS WORLD AND
14 THEIR -- THEY AND THEIR RELATIVES WANTED TO ENSURE THAT
15 THEY WERE PROPERLY CARED FOR IN THE NEXT WORLD. SO THEY
16 WOULD HAVE TOMBS. AND SOME OF THE TOMBS ARE QUITE SMALL
17 AND SOME ARE ENORMOUS. I MEAN, SOME OF THEM ARE
18 LITERALLY UNDERGROUND PALACES.

19 Q. CAN YOU EXPLAIN TO THE JURY WHAT THE DIFFERENCE
20 IS THEN BETWEEN THESE BURIAL ITEMS AND ITEMS THAT WERE
21 MEANT FOR VENERATION IN THE LIVING WORLD?

22 A. SO, YOU KNOW, WE COMMONLY REFER TO ITEMS THAT
23 ARE MADE FOR THE LIVING THAT HAVE A SPIRITUAL
24 SIGNIFICANCE OR RITUAL SIGNIFICANCE, AS OBJECTS OF
25 DEVOTION. AND THOSE OBJECTS OF DEVOTION TYPICALLY ARE

1 MEANT TO BE THINGS THAT ARE RESILIENT, AND THEY ARE
2 USUALLY MADE OF BRONZE. IF YOU WANT SOMETHING THAT IS
3 REALLY HIGH-QUALITY AND GOING TO BE LASTING FOR
4 GENERATIONS, IT WILL BE IN A TEMPLE THAT IS GOING TO BE
5 POTENTIALLY HANDLED, SO YOU WANT IT TO BE SOMETHING THAT
6 IS NOT GOING TO BE EASILY BROKEN OR DESTROYED. SO YOU
7 WILL MAKE IT OF METAL. IT MIGHT BE OF PORCELAIN, WHICH
8 IS ALSO A DIFFERENT KIND OF CLAY. IT IS FIRED VERY HIGH
9 SO IT FUSES TOGETHER LIKE GLASS, SO IT IS SOLID. YOU
10 KNOW, PORCELAIN CAN GET DAMAGED BUT IT IS NOT LIKE
11 POTTERY, WHICH IS AT THE LOWER END, WHICH IS UNFIRED.
12 WE WOULD SAY IT'S NOT FUSED TOGETHER. IT'S POROUS.
13 JUST THINK OF A FLOWER POT. HOW FLOWER POTS, YOU LEAVE
14 THEM OUT DURING THE WINTER AND IF YOU HAVE WATER IN IT
15 AND IT GETS COLD AND HOT, OFTEN AT THE END OF THE WINTER
16 YOU HAVE A BROKEN FLOWER POT. SAME WITH THE POTTERY.

17 WITH THE MINGQI, THERE WAS -- THE INTENT
18 WAS FOR THE TRANSFER OF THE ESSENCE OF THAT OBJECT TO
19 THE NEXT WORLD. IT WAS NOT INTENDED FOR THE LIVING.
20 THIS HAD NO MEANING FOR LIVING PEOPLE BECAUSE NO LIVING
21 PEOPLE WOULD EVER SEE THEM. IT WAS MADE FOR THE TOMB,
22 WENT INTO THE TOMB. THAT WAS IT. AND OBJECTS OF
23 DEVOTION WERE NOT MADE FOR THE TOMB. THEY WERE MADE FOR
24 LIVING PEOPLE TO INTERACT WITH THOSE. SO IT --
25 COMPLETELY DIFFERENT PURPOSE.

1 Q. ARE YOU FAMILIAR WITH THE NAME MICHAEL COHN?

2 A. YES.

3 Q. AND IS HE ALSO AN ART APPRAISER?

4 A. YES.

5 Q. HAVE YOU EVER WORKED WITH HIM PROFESSIONALLY?

6 A. I HAVE, MANY TIMES.

7 Q. ARE YOU FAMILIAR THAT HE BOTH WROTE TWO REPORTS
8 AND TESTIFIED IN THIS CASE?

9 A. I AM.

10 Q. ARE YOU FAMILIAR WITH HIS REPORTS HE AUTHORED?

11 A. I AM.

12 Q. AND HAVE YOU --

13 MS. NEWTON: OBJECTION, YOUR HONOR. MAY
14 WE SEE YOU AT SIDEBAR?

15 (SIDEBAR DISCUSSION BEGINS.)

16 MS. NEWTON: YOUR HONOR, WE RECEIVED AN
17 EXPERT REPORT FROM MR. LARK MASON LITERALLY LESS THAN A
18 WEEK BEFORE TRIAL. NOTHING IN THAT REPORT REFERS TO HIS
19 REVIEW OR ANYTHING ABOUT MICHAEL COHN'S REPORT. I
20 BELIEVE THIS IS IMPROPER. THEY HAVE PRESENTED HIM AS AN
21 EXPERT IN A PARTICULAR AREA TO GIVE HIS REPORT AND THIS
22 IS NOT WHAT HE WAS PRESENTED FOR.

23 MS. MACEOIN: YOUR HONOR, I AM
24 HIGHLIGHTING COMPARISONS BETWEEN THE ITEMS THAT MR. COHN
25 USED AS COMPARABLE ITEMS THAT MR. MASON USED AS

1 COMPARABLES, AND I THINK THAT IS INFORMATIVE TO THE JURY
2 ABOUT WHY THEY CAME UP WITH THE DIFFERENT NUMBERS.

3 THE COURT: CAN'T YOU JUST DO THAT BY
4 GOING OVER HIS REPORT?

5 MS. MACEOIN: I WILL DO THAT, YOUR HONOR.

6 (SIDEBAR ENDED.)

7 BY MS. MACEOIN:

8 Q. MR. MASON, LET'S LOOK AT YOUR REPORT.

9 A. OKAY.

10 Q. I WOULD LIKE TO TURN TO PAGE 9.

11 A. OKAY.

12 Q. IN THIS YOU HAVE -- THE SECTION HERE IS CALLED
13 DESCRIPTION OF PROPERTY, CORRECT?

14 A. YES.

15 Q. AND IS THIS THE DESCRIPTION OF THE ITEM THAT YOU
16 WERE HIRED TO EVALUATE, CORRECT?

17 A. YES.

18 Q. OKAY.

19 A. THE DIGIT.

20 Q. BRIEFLY, BEFORE WE GET THERE. WHAT TYPES OF
21 DOCUMENTS DID YOU REVIEW BEFORE YOU MADE THIS APPRAISAL
22 REPORT?

23 A. WELL, ALL OF THE DOCUMENTS THAT WERE SUPPLIED BY
24 YOUR OFFICE, WHICH INCLUDED IMAGES, INCLUDED THE CHINESE
25 REPORT, WHICH I FORGET THE NAME OF THAT ESTABLISHED THE

1 VALUE. IT WAS STATEMENT -- IT INCLUDED STATEMENTS FROM
2 OTHER SPECIALISTS AND I GUESS, INVESTIGATIVE PERSONNEL,
3 PEOPLE THAT ARE PROFESSIONALS IN SOME CAPACITY, THAT
4 WERE EXAMINING THE OBJECT AND DESCRIBING THE SITUATION
5 AT THE SCENE AND POST-SITUATION AND SO ON. SO I WENT
6 THROUGH ALL OF THOSE.

7 MS. MACEOIN: YOUR HONOR, IF I CAN JUST
8 ASK MY PARALEGAL SOMETHING VERY QUICKLY.

9 THE COURT: YES.

10 (BRIEF PAUSE IN THE PROCEEDING.)

11 BY MS. MACEOIN:

12 Q. I AM GOING TO DIRECT YOUR ATTENTION TO PAGE 9 OF
13 YOUR REPORT.

14 A. OKAY.

15 MS. MACEOIN: YOUR HONOR, THIS HAS BEEN
16 MOVED INTO EVIDENCE AND ONCE MY PARALEGAL PULLS IT UP.

17 THE COURT: IT'S UP.

18 MS. MACEOIN: IS IT READY? THERE WE GO.

19 BY MS. MACEOIN:

20 Q. DO YOU SEE ON THAT SCREEN THERE? IS THAT PAGE 9
21 OF YOUR REPORT?

22 A. YES, IT IS.

23 MS. MACEOIN: OKAY. IF WE COULD PUBLISH
24 THAT TO THE JURY.

25 BY MS. MACEOIN:

1 OKAY. SO THESE ARE THREE OF THE IMAGES
2 THAT WERE SENT TO YOU, CORRECT?

3 A. YES.

4 Q. SAFE TO SAY THE TOP ONE IS THE THUMB?

5 A. YES.

6 Q. OKAY. AND THEN THE OTHER TWO ARE THE HAND,
7 CORRECT?

8 A. YES.

9 Q. AND IT LOOKS LIKE THE MIDDLE ONE IS AFTER THE
10 BREAK AND THE BOTTOM ONE IS BEFORE?

11 A. YES.

12 Q. SAFE TO SAY.

13 OKAY. IN THESE PHOTOS -- I KNOW THEY ARE
14 SMALL AND IF YOU CAN'T MAKE AN OPINION, BUT DO YOU SEE
15 ANY EVIDENCE IN THAT BOTTOM PHOTO OF WHAT LOOKS LIKE
16 PREVIOUS REPAIR? IF IT'S TOO SMALL, THAT'S FINE.

17 A. YES. AGAIN, WHAT HAPPENS -- THAT'S WHY I
18 MENTIONED THE CLAY WHEN IT CHANGES COLOR OVER TIME WITH
19 RESTORATION. IT'S JUST A COMMONLY OCCURRING FEATURE.
20 AND SO THE DISCOLORATION THERE WOULD INDICATE THAT THAT
21 IS COVERING UP SOMETHING THAT HAD HAPPENED THAT HAD BEEN
22 A SIGNIFICANT DAMAGE AT SOME POINT.

23 Q. LET ME SHOW YOU A DIFFERENT PICTURE.

24 MS. MACEOIN: IF WE TAKE THAT DOWN AND
25 PULL UP WHAT HAS BEEN PREVIOUSLY BEEN MARKED AS DEFENSE

1 EXHIBIT 8, WHICH WOULD BE 41 FOR US.

2 BY MS. MACEOIN:

3 Q. OKAY. DO YOU SEE THAT PICTURE THERE?

4 A. YES.

5 Q. OKAY. AND DO YOU RECOGNIZE THAT?

6 A. I ACTUALLY DON'T REMEMBER SEEING THIS PICTURE,
7 BUT I AM SEEING IT NOW SO....

8 Q. IN THAT PICTURE DO YOU SEE ANY EVIDENCE ON THAT
9 HAND OF PRIOR RESTORATION OR REPAIRS?

10 A. YES. ABSOLUTELY. STRAIGHT THROUGH THE FINGERS,
11 AND THEN ONE WOULD QUESTION THE DARK GRAY FROM THE LIGHT
12 GRAY. AGAIN, THAT'S, YOU KNOW, USUALLY RESULTING FROM
13 THE INTRODUCTION OF MATERIAL THAT HAS CHANGED COLOR.

14 Q. SO CAN YOU TELL FROM LOOKING AT THAT WHETHER
15 THAT HAS BEEN, BY YOUR DEFINITIONS, RESTORED OR
16 REPAIRED?

17 A. IT HAS BEEN BOTH.

18 Q. BOTH. THANK YOU. AND THAT MEANS THE
19 INTRODUCTION OF OTHER MATERIAL, CORRECT?

20 A. YES. EXACTLY.

21 Q. SO IN COMING -- LET'S TALK ABOUT YOUR CONCLUSION
22 HERE IN YOUR REPORT, AND THEN WE WILL TALK ABOUT HOW YOU
23 GOT THERE.

24 AGAIN, YOU WERE CHARGED WITH DETERMINING
25 THE FAIR MARKET VALUE OF THE THUMB, CORRECT?

1 A. YES.

2 Q. NOT THE ENTIRE WARRIOR, CORRECT?

3 A. RIGHT.

4 Q. OKAY. AND WHAT WAS THE VALUE THAT YOU CAME UP
5 WITH AFTER DOING THIS, REVIEWING THE EVIDENCE AND
6 APPLYING YOUR PROFESSIONAL APPROACH?

7 A. I CAME UP WITH \$1,000.

8 Q. HOW DO YOU REACH THAT CONCLUSION?

9 A. WELL, WHENEVER I AM COMING UP -- TRYING TO COME
10 UP WITH ANY KIND OF VALUE ON AN OBJECT, IT'S A MATTER OF
11 DETERMINING WHAT THE MATERIAL IS, WHAT CULTURE IT IS
12 FROM, ALL THOSE -- THE BASIC INFORMATION.

13 AND THEN YOU COMPARE LIKE WITH LIKE. SO
14 IN THAT INSTANCE YOU DON'T WANT TO COMPARE A PORCELAIN
15 BOWL, WHICH IS A DIFFERENT KIND OF MATERIAL, WITH A
16 GLASS BOWL. TWO DIFFERENT -- TOTALLY DIFFERENT THINGS.
17 SO IN LOOKING AT THE HAND, WHAT WE HAD TO FIND WAS
18 SOMETHING THAT WAS MADE OF A COMPARABLE MATERIAL, FOR A
19 COMPARABLE PURPOSE, FROM A COMPARABLE KIND OF LOCATION
20 SITE SO THAT IT WOULD BE UNDERGOING THE SAME SORT OF,
21 YOU KNOW, CIRCUMSTANCES, BEING BURIED AND SO ON, AND
22 HAVE THE SAME KIND OF PURPOSE. AND SO THAT'S WHAT WE --
23 WHAT I DID. AND THEN LOOKED AT THE MARKET AS IT EXISTS,
24 WHICH WE KNOW FOR THE OTHER COMPARABLE MATERIAL AND THEN
25 EXTRAPOLATED THAT OUT ON TO THE THUMB.

1 Q. SO FOR THE -- DETERMINING THE FAIR MARKET VALUE
2 OF THE THUMB IN THIS CASE, WOULD YOU FIND IT -- WOULD
3 YOU IN YOUR PROFESSIONAL EXPERTISE AND EXPERIENCE EVER
4 COMPARE IT TO SOMETHING MADE OF JADE?

5 A. NO. BECAUSE IT'S NOT COMPARABLE. IT WOULD FAIL
6 ON THE MATERIAL TEST. JADE WAS USED -- I JUST DID --
7 TAUGHT A CLASS ON THIS, BUT JADE WAS USED FOR BURIAL
8 PURPOSES, NOT AS MINGQI. IT HAD A DIFFERENT FUNCTION.
9 IT WAS PART OF THE TOMB. IT WAS INCLUDED, BUT IT WAS
10 NOT INCLUDED WITH THE SAME KIND OF FUNCTIONALITY AS
11 THIS. SO YOU CAN'T MAKE A COMPARISON WITH A POTTERY
12 VERSION.

13 Q. WHAT ABOUT WITH BRONZE OR PORCELAIN?

14 A. SAME KIND OF THING. SOMETIMES YOU GET BRONZE IN
15 TOMBS, BUT IT'S NOT COMPARABLE TO THE TERRACOTTA PIECES
16 THAT WERE IN THE TOMB. AND IT'S NOT LIKE AND LIKE. THE
17 ONLY SIMILARITY IS SOME OF IT WAS BURIED, BUT THAT'S --
18 IT'S NOT THE SAME MATERIAL. SO YOU CAN'T COMPARE IT.

19 Q. SO IN YOUR OPINION IS -- WELL, IN YOUR
20 EXPERIENCE, AND I THINK YOU MENTIONED THIS ALREADY, THAT
21 THE TERRACOTTA POTTERY IS MORE BREAKABLE THAN OTHER
22 ITEMS, IS THAT CORRECT?

23 A. RIGHT, BECAUSE ITS INTENT WAS CARRY THE ESSENCE
24 INTO THE NEXT WORLD. SO IT WAS NOT MEANT TO BE HANDLED
25 AND NOT TO STAND WHAT WE WOULD CALL THE TEST OF TIME.

1 NOW, WHAT BECOMES HARD IS WE TAKE THESE AND IT ENTERS
2 INTO THE MARKETPLACE AND PEOPLE HANDLE THEM AND THEY PUT
3 THEM ON THEIR MANTELPIECES OR IN THEIR CABINETS, AND
4 THEY COLLECT THEM. AND IT MEANS THAT WE HAVE HAD AN
5 OPPORTUNITY TO STUDY THEM, AND I HAVE HANDLED THOUSANDS
6 AND THOUSANDS OF THESE KIND OF OBJECTS.

7 Q. SO BEFORE WE MOVE ON TO THE COMPARABLES THAT YOU
8 CHOSE, TALKING ABOUT MINGQI IN GENERAL, IS IT ACCEPTED
9 OR EXPECTED THAT THESE ITEMS WOULD BE REPAIRED OR
10 RESTORED?

11 A. YES. IT IS ALMOST ALWAYS THE CASE THAT THESE
12 HAVE SOME DEGREE OF REPAIR. IF YOU ARE LUCKY, IT'S JUST
13 REPAIR WHERE THERE ARE CLEAN BREAKS, SAY, THROUGH THE
14 LEGS OF A HORSE OR A FIGURE, IT MIGHT BE BROKEN THROUGH
15 THE CENTER BECAUSE MANY OF THE LARGER FIGURES THAT ARE
16 ABOUT THIS HIGH OR LARGER WILL BE MADE IN TWO SECTIONS.
17 SO THAT SECTION WHERE THE BOTTOM MOLD WOULD HAVE BEEN
18 USED, THAT JOIN IS CALLED A LUTE LINE, AND THE LUTE
19 LINES OFTEN ARE WEAK, AND THEY OFTEN BREAK AT THAT
20 JUNCTURE. SO THAT'S IN A GOOD CIRCUMSTANCE. BUT THE
21 VAST MAJORITY OF THE TIME WHAT HAPPENS IS THE ROOF
22 COLLAPSES, AND THEY ARE BROKEN IRREGULARLY THROUGHOUT
23 THE OBJECT.

24 Q. SO IF YOU RECEIVED AN ITEM OF TERRACOTTA POTTERY
25 TO DO AN APPRAISAL ON, AND YOU KNEW THAT IT HAD

1 PREVIOUSLY BEEN RESTORED, WOULD THAT AFFECT YOUR OVERALL
2 VALUE OF THAT PIECE?

3 A. IT DEPENDS ON THE AMOUNT OF INTRODUCTION OF NEW
4 MATERIAL. IF IT'S OLD -- IF IT'S REPAIRED WHERE YOU ARE
5 JUST GLUING IT BACK TOGETHER, THERE IS ALMOST NO EFFECT
6 BECAUSE THIS IS SO COMMON. IF A SIGNIFICANT AMOUNT OF
7 MATERIAL HAS BEEN INTRODUCED AS NEW MATERIAL, BECAUSE
8 THE ORIGINAL BURIAL WAS PULVERIZED, THEN THAT CAN AFFECT
9 THE VALUE.

10 Q. AND IF SOMETHING IS REPAIRED AFTER IT HAD
11 PREVIOUSLY BEEN BROKEN AT THE SAME PLACE, SO THE REPAIR
12 OCCURS FOR THE SECOND TIME IN THE SAME PLACE, WOULD THAT
13 AFFECT THE OVERALL VALUE OF THE PIECE, IN YOUR OPINION?

14 A. NO.

15 MS. MACEOIN: IF I CAN JUST STEP BACK TO
16 MY DESK FOR ONE MOMENT TO GRAB AN EXHIBIT.

17 THE COURT: YES.

18 MS. MACEOIN: THANK YOU.

19 BY MS. MACEOIN:

20 Q. I WOULD LIKE TO SHOW YOU WHAT HAS PREVIOUSLY
21 BEEN MARKED AS DEFENSE EXHIBIT 17.

22 I'M SORRY. IT'S 51.

23 OKAY. HAVE YOU SEEN THIS PICTURE BEFORE?

24 A. YES.

25 Q. OKAY. AND CAN YOU OPINE IF YOU CAN AS TO

1 WHETHER THIS APPEARS TO BE A BREAK AT AN EXISTING PLACE
2 OF REPAIR?

3 A. IT LOOKS TO BE AN EXISTING BREAK.

4 MS. MACEOIN: IF WE CAN PUBLISH THIS TO
5 THE JURY.

6 THE COURT: YES.

7 BY MS. MACEOIN:

8 Q. AND WHAT MAKES YOU SAY THAT BY LOOKING AT THAT?

9 A. YOU CAN SEE THE WHITE MATERIAL ON THE EXTERIOR
10 ON THAT EDGE, WHICH IS LIKELY INTRODUCED NEW MATERIAL.

11 Q. NEW MATERIAL, IS THAT AN ADHESIVE?

12 A. MOST LIKELY IT'S AN ADHESIVE OR IT'S COVERING UP
13 WHERE THE JOIN WAS. YOU CAN ALSO -- I SEE GLUE RESIDUE
14 IN THERE. SO AT THAT KIND OF JAGGED LINE RIGHT
15 IMMEDIATELY BELOW IT, IT APPEARS TO BE GLUE, SOME SORT
16 OF ADHESIVE RESIDUE.

17 Q. THANK YOU.

18 MS. MACEOIN: YOU CAN TAKE THAT DOWN.

19 BY MS. MACEOIN:

20 Q. LET'S TURN TO YOUR REPORT AND THE COMPARABLES
21 THAT YOU DETERMINED YOU WOULD USE TO MAKE YOUR APPRAISAL
22 IN THIS CASE.

23 SO BEGINNING ON PAGE 12 OF YOUR REPORT.

24 A. COULD I CLARIFY ONE THING?

25 Q. SURE. GO AHEAD.

1 A. YOU KNOW, WHEN YOU ARE TALKING ABOUT REPAIR AND
2 RESTORATION, IF YOU LOOK AT THAT BOTTOM IMAGE, THE ONE
3 OF THE THUMB.

4 MS. MACEOIN: LET'S PULL UP PAGE 9 OF HIS
5 REPORT. IF YOU CAN MAKE THOSE PHOTOS LARGER TOO FOR THE
6 JURY. THANK YOU.

7 THE WITNESS: SO WHEN YOU HAVE A
8 SITUATION WHERE THERE HAS BEEN --

9 MS. MACEOIN: THERE YOU GO.

10 THE WITNESS: -- DAMAGE.

11 BY MS. MACEOIN:

12 Q. YES.

13 A. AND USING THE BEST AVAILABLE MATERIALS AT THE
14 TIME, RESTORATION AND REPAIR HAS BEEN DONE WITH AN
15 OBJECT, WHICH IS WHAT'S HAPPENED WITH THIS HAND, SO AT A
16 SITE SUCH AS THE SITE AT XI'AN, A LOT OF THAT WORK WAS
17 DONE WHEN THEY FIRST EXCAVATED THE MATERIAL, AND
18 THROUGHOUT THE 80'S AND 90'S, WHATEVER, YOU GET THIS
19 DISCOLORATION THAT OCCURS. SO IN MANY INSTANCES IT
20 BECOMES -- IT AFFECTS THE VISUAL APPEAL OF THE ITEM. SO
21 IT IS NOT PRESENTING ITSELF IN THE SAME WAY AS THE
22 ORIGINAL OBJECT WOULD HAVE BEEN PRESENTED BY THE CREATOR
23 OF THAT OBJECT. SO IT'S NOT COMMUNICATING THE WAY IT
24 WOULD HAVE COMMUNICATED WHEN IT WAS MADE. SO IN THAT
25 INSTANCE, WE -- MOST OF THE PEOPLE I KNOW IN OUR

1 PROFESSION WOULD ADVOCATE THAT WOULD BE A CASE OF WHERE
2 YOU WOULD UNDO THE PREVIOUS RESTORATION AND REPAIR SO
3 THAT THOSE REPAIRS AND RESTORATION THAT HAVE AGED POORLY
4 WOULD BE REMOVED. AND IN THAT INSTANCE THEN THE OBJECT
5 BECOMES, YOU KNOW, LIKE IT SHOULD BE. SO IT'S NOT A
6 VISUAL DETERRENT TO PEOPLE GOING TO LOOK AT IT, AND THEY
7 ARE GOING HECK, WHAT HAPPENED TO THE THUMB. I CAN SEE
8 THAT IT'S A DIFFERENT COLOR OR THE DIFFERENT COLOR ON
9 THE SKIRT OF THE ARMOR. IT BECOMES SOMETHING THAT IS
10 OBTRUSIVE. IT'S DETRACTING FROM THE IMPORTANCE OF THE
11 OBJECT.

12 Q. IN THESE PARTICULAR TERRACOTTA WARRIORS OR
13 MINGQI IN GENERAL, THE PICTURES THAT YOU VIEWED, WOULD
14 YOU SAY THAT THE REPAIRS OR RESTORATION HAS AT ALL
15 DIMINISHED THE ARTISTIC VALUE OF THE PIECE?

16 A. IN THIS STATE, YES.

17 Q. HOW SO?

18 A. BECAUSE IT IS VISUALLY INTRUDING UPON THE
19 EXPERIENCE OF THE VIEWER. THESE WERE NOT INTENDED TO BE
20 VIEWED, BUT WE ARE VIEWING THEM NOW BECAUSE THEY ARE IN
21 MUSEUMS AND THEY ARE IN THE PUBLIC SPHERE. SO THE
22 EXAMPLES I CITE AS COMPARABLES, FOR INSTANCE, IT IS NOT
23 UNUSUAL. YOU WILL HAVE SOMEBODY WITH A CAMEL THAT WAS
24 MADE AS MINGQI, THAT THE RESTORATION BECOMES OBTRUSIVE,
25 AND THEN IT WILL LOSE VALUE UNTIL YOU TAKE ALL OF THAT

1 AWAY AND YOU REDO IT AND THEN IT LOOKS BETTER AND IT'S
2 GOING TO SELL FOR MORE MONEY. SO THAT'S ONE OF THE
3 JUDGMENT CALLS THAT WE MAKE AS SPECIALISTS WHEN WE HAVE
4 THINGS COME TO US, WHERE THE GLUES HAVE DISCOLORED, THE
5 PIGMENTS HAVE DISCOLORED FOR PAINTING, ALL KINDS OF
6 THINGS.

7 Q. SO IS IT SAFE TO SAY, AND CORRECT ME IF I'M
8 WRONG, THAT PERHAPS ADHESIVES AND METHODS OF REPAIR HAVE
9 BECOME BETTER IN RECENT YEARS THAN THEY WERE MAYBE 20 OR
10 30 YEARS AGO?

11 A. I WOULD SAY THAT IN SOME CASES THAT'S TRUE. I
12 AM NOT AN EXPERT IN THAT AREA. I AM AN EXPERT IN THE
13 WAY OF DETERMINING THE MARKET AND THE EFFECT ON THE
14 MARKET BY VISUAL APPEAL. SO EVEN IF YOU USE THE SAME
15 MATERIALS THAT WERE USED IN THE 70'S OR THE 80'S, IF YOU
16 USE THOSE SAME THINGS TODAY, THEY ARE GOING TO BE DONE
17 LIKE THEY WERE THEN, TO MATCH EVERYTHING SO IT WOULD NOT
18 BE UNOBTUSIVE, BECAUSE THAT'S THE POINT. YOU WANT THE
19 PEOPLE TO GO TO MUSEUMS TO EXPERIENCE THIS THE WAY IT
20 WAS INTENDED TO BE EXPERIENCED.

21 Q. THANK YOU.

22 A. YOU DON'T WANT TO BE LOOKING AT SOMETHING THAT
23 SOME MODERN PERSON DID.

24 Q. LET'S TURN TO YOUR COMPARABLES STARTING ON PAGE
25 12 OF YOUR REPORT. SO IT APPEARS HERE, AND CORRECT ME

1 IF I'M WRONG, THAT YOU HAVE KIND OF DIVIDED THIS INTO
2 TWO SECTIONS, COMPARABLES LISTED IN NUMBERS 1 THROUGH 6,
3 AND THEN COMPARABLES LISTED IN 7 THROUGH 11, IS THAT
4 CORRECT?

5 A. YES.

6 Q. CAN YOU EXPLAIN TO THE LADIES AND GENTLEMEN OF
7 THE JURY WHY YOU CHOSE TO BREAK YOUR COMPARABLES INTO
8 TWO DIFFERENT GROUPS?

9 A. I WANTED TO USE, IN THIS CASE THE FIRST GROUP,
10 THE FIRST SIX, ANIMALS. AND I WANTED TO ILLUSTRATE IT'S
11 NOT JUST CAMELS, THAT'S WHY I PUT A DUCK IN THERE AS
12 WELL. YOU CAN GET -- EVERY KIND OF ANIMAL YOU CAN THINK
13 OF WAS MADE AS -- JUST ABOUT AS MINGQI, BUT PARTICULARLY
14 CAMELS. THESE WERE PART OF A TOMB THAT WOULD HAVE BEEN
15 OF AN EXTREMELY WEALTHY PERSON BECAUSE IT WAS PART OF
16 THE CARAVAN, IN EFFECT OWNING A TRUCKING COMPANY. THIS
17 IS HOW THEY CARRIED GOODS BACK AND FORTH EVENTUALLY
18 BETWEEN ROME AND CHINA. IT DIDN'T GO ALL THE WAY TO
19 ROME, BUT THEY WENT ON DIFFERENT STOPS. SO I WANTED TO
20 USE THAT AS SOMETHING THAT WOULD HAVE COME FROM AN
21 ELEVATED TOMB, BUT ALSO BECAUSE I WANTED TO ILLUSTRATE
22 THE CONDITION REPORTS WHICH WERE AVAILABLE SHOWING THE
23 DIFFERENCE BETWEEN THE USE OF RESTORATION AND REPAIRS IN
24 THE WORDING, BUT ALSO TO SHOW THAT VIRTUALLY ALL OF
25 THESE THINGS HAVE RESTORATION AND/OR REPAIRS.

1 Q. SO WHY IS IT IMPORTANT TO HAVE THAT CONDITION
2 REPORT?

3 A. WELL, BECAUSE THE PEOPLE WHO ARE BUYING THESE
4 EXPECT THAT THERE IS GOING TO BE SOMETHING THAT HAS
5 HAPPENED TO IT, BECAUSE THESE HAVE HAD A LIFE THAT, YOU
6 KNOW, IS INVOLVED WITH BEING EXCAVATED FROM A COLLAPSED
7 TOMB. SO WHAT THEY DON'T KNOW, BECAUSE RESTORATION IS
8 SO GOOD, BECAUSE THE PURPOSE IS TO RETURN IT TO THE
9 VISUAL APPEARANCE THAT IT ORIGINALLY HAD, THEY NEED AN
10 EXPERT STATEMENT THAT IS GUARANTEED OF A PROFESSIONAL
11 WHO CAN COMMUNICATE TO THEM, YOU CAN BE COMFORTABLE THAT
12 THIS HAS BEEN BROKEN IN THESE VARIOUS PLACES, SOME NEW
13 MATERIAL HAS BEEN INTRODUCED, THIS IS WHERE IT HAS BEEN
14 INTRODUCED. BECAUSE WE AS SPECIALISTS STAND BEHIND IT,
15 SO YOU CAN HAVE CONFIDENCE THAT THE ENTIRE THING IS NOT
16 NEW.

17 Q. SO THESE FIRST SIX COMPARABLES ARE INTACT
18 PIECES, CORRECT?

19 A. INTACT, IN THAT THEY HAVE BEEN RESTORED.

20 Q. REPAIRED? REPAIRED OR --

21 A. RESTORED AND REPAIRED.

22 Q. AS YOU TESTIFIED EARLIER, IT'S NOT UNCOMMON FOR
23 MINGQI TO BE RESTORED AND REPAIRED, CORRECT?

24 A. YES. AND THERE'S KIND OF A MARKET AS AN
25 ACCEPTABLE BAND OF WHAT IS INTRODUCTION OF NEW MATERIAL,

1 AND THAT DEPENDS ON THE RARITY OF THE KIND OF OBJECT
2 THAT YOU ARE TALKING ABOUT.

3 Q. WITHOUT LOOKING THROUGH EACH ONE, OBVIOUSLY YOU
4 CONSIDERED EACH PIECE IN COMING TO YOUR EVALUATION,
5 CORRECT?

6 A. I DID.

7 Q. FOR YOUR ESTIMATE.

8 SO FOR EXAMPLE, THE NUMBER 1 IS THE DUCK
9 WHICH SOLD AT \$2,000, CORRECT?

10 A. YES.

11 Q. AND NUMBER 3, ONE OF THE CAMELS SOLD AT 6,250
12 AND THEN UP TO NUMBER 6 WHICH SOLD AT \$32,000. SO --

13 A. YEAH.

14 Q. THEY SOLD AT VARIOUS RATES AT AUCTION, CORRECT?

15 A. YES.

16 Q. AND LOOKING AT THE NEXT SECTION OF THE
17 COMPARABLES, NUMBERS 7 THROUGH 11, CAN YOU EXPLAIN TO
18 THE LADIES AND GENTLEMEN OF THE JURY WHY YOU KIND OF PUT
19 THOSE SEPARATE?

20 A. WELL, I WANTED TO USE FIGURAL EXAMPLES AND ALSO
21 EXAMPLES THAT SOMETIMES DO APPEAR AT AUCTION WHERE
22 ELEMENTS HAVE BEEN BROKEN OFF AND WILL APPEAR SEPARATELY
23 FROM THE MAIN BODY OF THE MATERIAL.

24 Q. IN YOUR RESEARCH TO DO THIS APPRAISAL, DID YOU
25 COME ACROSS ANY DIGITS SUCH AS A FINGER OR A TOE WHICH

1 SOLD AT AUCTION?

2 A. NO. I COULD NOT FIND ANY. AND THE MARKET JUST
3 SIMPLY DOES NOT SUSTAIN -- THERE IS NO VALUE FOR
4 SOMETHING LIKE THAT.

5 Q. NOW, YOU DO, IN NUMBERS 9 AND 10 AND 11, TALK
6 SPECIFICALLY ABOUT PIECES --

7 A. YES.

8 Q. -- ELEMENTS. IN NUMBER 9 AND 10 THERE ARE
9 HORSES AND TORSOS, CORRECT?

10 A. YES.

11 Q. AND THEN ON NUMBER 11 THEY ARE THAT GROUP OF 11
12 INDIVIDUAL HORSE HEADS, CORRECT?

13 A. YES.

14 Q. SO CAN YOU TELL THE LADIES AND GENTLEMEN OF THE
15 JURY WHY YOU CHOSE THE HORSE PARTS AND THE HORSE HEADS?

16 A. I CHOSE THE HORSE HEADS BECAUSE THEY ARE ONE OF
17 THE VERY FEW EXAMPLES THAT DOES COME UP FOR SALE
18 SEPARATELY. AND YOU HAVE -- THE HORSE TORSO WAS NOT
19 JUST A TORSO. IT ACTUALLY HAD LACQUERED WOODEN LEGS,
20 SOMETIMES CLAY LEGS, BUT OFTEN THEY WERE WOODEN LEGS AND
21 THE WHOLE THING WAS BRIGHTLY PAINTED. SO IT DIDN'T
22 APPEAR THE WAY WE SEE IT HERE. AND SOME OF THEM
23 ACTUALLY HAD ORGANIC MATERIAL OVER THEM, YOU KNOW,
24 SADDLES AND ALL KINDS OF THINGS. REAL HORSEHAIR TAILS
25 WERE IN SOME OF THESE.

1 SO IN THE MARKETPLACE, THOUGH, WE HAVE IN
2 OUR CULTURE A CONNECTION WITH HORSES. PEOPLE LIKE
3 HORSES. IT'S LIKE DOGS. SO THERE IS A MARKET FOR A
4 HORSE HEAD.

5 Q. YOU SAY A MARKET YOU MEAN --

6 A. IN THE WEST.

7 Q. IN THE WEST. OUTSIDE OF CHINA?

8 A. OUTSIDE OF CHINA. THERE IS A MARKET FOR HORSE
9 HEADS IN THE WEST.

10 Q. CAN I ASK YOU, IS THERE ANY MARKET FOR MINGQI --
11 OR AT ALL IN CHINA?

12 A. THERE IS VERY, VERY LITTLE MARKET FOR MINGQI IN
13 CHINA. AND THE REASON FOR THAT IS THESE THINGS COME
14 FROM GRAVES, AND IT IS CONSIDERED EXTREMELY BAD LUCK TO
15 OWN SOMETHING FROM A TOMB THAT IS CONVEYING ITS ESSENCE
16 TO THE NEXT WORLD OF THAT PERSON WHO IS NOT GOING TO BE
17 HAPPY IF YOU TAKE THE THINGS FROM THE TOMB. SO A LOT --
18 IT RUNS VERY STRONGLY THROUGHOUT CHINA. SO THE BUYERS
19 FOR MOST MINGQI THINGS ARE IN THE WEST, WHICH IS WHY IF
20 YOU GO TO HONG KONG YOU SEE THERE ARE A LOT OF DEALERS
21 THAT SELL THINGS THAT ARE MINGQI. BUT THE AUDIENCE IS
22 PRIMARILY IN THE WEST, MEANING IN THE UNITED STATES AND
23 EUROPE.

24 Q. SO ALL OF THE COMPARABLES HERE OF MINGQI, THEY
25 WERE SOLD, IT LOOKS LIKE, IN NEW YORK AND OTHER PLACES

1 IN THE WEST, SOTHEBY'S NEW YORK?

2 A. YES.

3 Q. HONG KONG AND EUROPE, CORRECT?

4 A. YES.

5 Q. IN YOUR DETERMINATION OF THESE AND YOU ARE
6 COMPARING THESE -- AND AGAIN, WHEN WE TALK ABOUT
7 COMPARABLES, YOU DON'T TAKE, FOR EXAMPLE, 11 ITEMS AND
8 THEN TAKE THE AVERAGE TO COME UP WITH --

9 A. NO. I WANT TO ILLUSTRATE EACH ONE. THE OTHER
10 THING THAT I WANTED TO ILLUSTRATE FROM ALL OF THESE IS
11 THERE'S LOTS AND LOTS AND LOTS OF THIS MATERIAL. AND
12 YOU CAN SEE SOME OF THEM SELL FOR TENS OF THOUSANDS OR
13 HUNDREDS OF THOUSANDS OF DOLLARS. IF THERE WERE A
14 MARKET FOR FRAGMENTS OF THESE THINGS, YOU CAN BET THERE
15 WOULD BE FRAGMENTS IN THE MARKETPLACE THAT WOULD BE
16 BEING BOUGHT BY PEOPLE WHO WOULD BE INTERESTED IN DOING
17 IT AS A COLLECTABLE OR WHATEVER, BUT THERE ISN'T,
18 BECAUSE ITS VALUE -- THESE ARE VALUED FOR THEIR ARTISTRY
19 FOR THEIR RESTORED APPEARANCE, WHAT THEY ARE CONVEYING,
20 WHICH IS WHAT THEY WERE ORIGINALLY INTENDED TO CONVEY.
21 THAT'S WHY PEOPLE PUT UP WITH RESTORATION AND REPAIR,
22 AND THAT'S COMMONLY ACCEPTED.

23 AND IF YOU HAD THAT IN SOME OTHER
24 MATERIAL, LET'S SAY PORCELAIN, WHICH WAS NOT INTENDED TO
25 BE VIEWED THAT WAY, AND IT'S BROKEN AND RESTORED AND YOU

1 CAN SEE IT, THEN THE MARKET DROPS PRECIPITOUSLY. IT'S A
2 BIG CHANGE.

3 Q. SO YOUR APPRAISAL VALUE OF \$1,000 FOR --

4 MS. MACEOIN: CAN YOU BRING UP 0075, TO
5 THE WITNESS ONLY, PLEASE. OR TO THE --
6 BY MS. MACEOIN:

7 Q. OKAY. IF YOU CAN LOOK WHAT IS ON YOUR SCREEN
8 THERE, MR. MASON?

9 A. YES.

10 Q. SO THIS ITEM?

11 MS. MACEOIN: AND WE CAN PUBLISH THIS TO
12 THE JURY. THIS IS PREVIOUSLY BEEN MARKED AND MOVED.
13 BY MS. MACEOIN:

14 Q. SO THIS ITEM SELLING BY ITSELF IS WHAT YOU CAME
15 UP AS YOUR APPRAISAL VALUE OF \$1,000, CORRECT?

16 A. I DID.

17 Q. OKAY. AND WHEN YOU CAME UP WITH THAT NUMBER,
18 DID YOU CONSIDER THE HISTORY AND THE CULTURAL IMPORTANCE
19 OF THE TERRACOTTA WARRIORS?

20 A. YES.

21 Q. THANK YOU. AND ASIDE -- AGAIN, THIS IS THE FAIR
22 MARKET VALUE WHICH IS SORT OF HYPOTHETICAL BECAUSE THERE
23 IS NO MARKET TO SELL THESE, CORRECT?

24 A. CORRECT.

25 Q. NOW, YOU ALSO IN YOUR REPORT TALKED ABOUT AN

1 ALTERNATIVE APPROACH. AND IF I CAN DIRECT YOUR
2 ATTENTION TO PAGE 15 OF YOUR REPORT.

3 A. YES.

4 Q. OKAY. WHY DID YOU -- WELL, LET ME ASK YOU THIS:
5 IN THIS ALTERNATIVE APPROACH YOU TALK ABOUT A
6 CALCULATION OF THE WORTH OF THE THUMB ALMOST BY CUBIC
7 CENTIMETERS, CORRECT?

8 A. I DO.

9 Q. WHY DID YOU EMPLOY THAT METHOD?

10 A. I DO BECAUSE AGAIN, GOING BACK TO THE ORIGINAL
11 INTENT OF THE CREATOR OF THESE THINGS, WAS TO BE VIEWED
12 AS A WHOLE, AS AN ENTIRE OBJECT. IT'S THE HISTORICAL
13 ASSOCIATION OF THE ENTIRE OBJECT THAT HAS MEANING,
14 WHETHER WE ARE LOOKING AT THE COMPARABLES OR LOOKING AT
15 THE FIGURE ITSELF. SO WHEN THAT IS THE CASE, ELEMENTS
16 THAT ARE TAKEN FROM THAT NO LONGER ARE ASSOCIATED WITH
17 THAT FIGURE IN THE SAME WAY. IT IS PART OF SOMETHING
18 BUT IT'S NOT ABLE TO TELL THE WHOLE STORY.

19 SO THE ONLY WAY THAT YOU CAN THINK OF
20 THAT THEN IS KIND OF LIKE WHAT WE WOULD CALL A
21 COLLECTABLE, ANYBODY THAT'S WATCHED THE ANTIQUES
22 ROADSHOW, WE TALK ABOUT COLLECTABLES, YOU KNOW, WHERE
23 YOU HAVE SOMETHING THAT IS A FRAGMENT FROM SOME
24 IMPORTANT OBJECT AND PEOPLE WANT IT BECAUSE OF THE
25 ASSOCIATION. IT'S NOT THE ARTISTRY OF THE OBJECT. YOU

1 KNOW, THERE IS NO ARTISTRY TO SPEAK OF IN A MODEL OF A
2 LITTLE THUMB. IT'S THE ASSOCIATION THAT'S GOT THE
3 VALUE.

4 SO IF THAT IS THE WAY THAT YOU HAVE TO
5 APPROACH IT, THEN THERE ARE OTHER THINGS THAT ARE PART
6 OF THAT FIGURE THAT WOULD ALSO HAVE VALUE AND YOU HAVE
7 TO FIGURE OUT WHAT IS THE PROPORTION TO THE REST OF THE
8 FIGURE. AND, YOU KNOW, I THINK ONCE YOU GO DOWN THE
9 ROAD OF DIVIDING THINGS UP INTO DIGIT-SIZED ELEMENTS,
10 YOU ARE NOT TALKING ABOUT ARTISTRY AT ALL. YOU ARE
11 TALKING ABOUT SOMEBODY THAT WANTS A PIECE OF SOMETHING,
12 AND THAT'S WHERE I ENDED UP WITH A FIGURE I THINK OF
13 \$130 VERY ROUGHLY, BASED OFF THE CUBIC CENTIMETERS IN
14 THE ENTIRE FIGURE. BUT, YOU KNOW --

15 Q. LET'S DO THE MATH FOR THE JURY.

16 A. YEAH.

17 Q. YOU BASE THIS FIRST OF ALL ON THE --

18 A. NUMBERS PROVIDED BY THE CHINESE DOCUMENTS, YES.

19 Q. AND YOU, I BELIEVE IN THE COURSE OF YOUR REVIEW
20 OF DOCUMENTS, LOOKED AT THE CULTURAL VALUE BILL OF THE
21 EXHIBITION, CORRECT?

22 A. I DID.

23 MS. MACEOIN: CAN WE BRING UP WHAT --
24 PREVIOUSLY MARKED AS DEFENSE EXHIBIT -- I'M
25 SORRY -- GOVERNMENT EXHIBIT 5, WHICH IS 137 FOR US.

1 THERE WILL BE A PAGE OF THIS ON YOUR
2 SCREEN. I'M SORRY, CAN I MAKE SURE THAT'S THE RIGHT
3 ONE?

4 THE WITNESS: AND IT'S TOTALLY
5 UNREADABLE. BUT --

6 MS. MACEOIN: LET ME DO THIS. LET'S --

7 THE WITNESS: I KNOW WHAT'S THERE THOUGH.
8 IT IS OKAY.

9 MS. NEWTON: YOUR HONOR, IF IT HELPS, THE
10 GOVERNMENT EXHIBIT BOOK IS ON THE TABLE IF YOU WANT TO
11 TURN TO THE EXHIBIT AND LOOK AT IT.

12 MS. MACEOIN: CERTAINLY. EXHIBIT NUMBER
13 5. LET'S DO THAT.

14 THE WITNESS: IS IT IN HERE?

15 MS. MACEOIN: YES, I'LL HELP YOU.

16 MAY I APPROACH, YOUR HONOR?

17 THE COURT: YES.

18 THE WITNESS: PAGE 5? OKAY.

19 MS. MACEOIN: FIRST PAGE.

20 BY MS. MACEOIN:

21 Q. SO THAT PAGE DESCRIBES WHAT THE INSURED VALUE AS
22 SET BY THE CHINESE IS, CORRECT?

23 A. CORRECT.

24 Q. AND NUMBER 7, WHICH IS THE BOTTOM OF THE PAGE,
25 YOU HAVE HERE THAT ITS VALUE -- OR EXCUSE ME -- THE

1 CHINESE INSURANCE VALUATION IS SET AT \$4.5 MILLION,
2 CORRECT?

3 A. YES.

4 Q. IN THAT BILL THERE ARE SEVERAL OTHER TERRACOTTA
5 WARRIORS THAT ARE INSURED AT THE SAME AMOUNT, CORRECT?

6 A. MM-HMM.

7 Q. YOU HAVE TO ANSWER YES OR NO.

8 A. YES. SORRY, YES.

9 Q. AND THEN THERE ARE A FEW THAT ARE MORE AND A FEW
10 THAT ARE LESS, CORRECT?

11 A. YES.

12 Q. CAN I ASK YOU IF -- WHAT IS THE LIKELIHOOD THAT
13 DIFFERENT RESTORED AND REPAIRED CAVALRYMEN OR ARCHERS OR
14 WARRIORS WOULD BE PUT TOGETHER IN THE EXACT SAME WAY,
15 EACH ONE?

16 A. NONE, BECAUSE THEY ARE NOT. I MEAN, THE BIG
17 PIECES ARE PUT TOGETHER OF COURSE BECAUSE THEY ARE MADE
18 FROM MOLDS AND THAT WHERE THE MOLD IS. BUT ANYTHING
19 THAT HAS BEEN BROKEN IS GOING TO HAVE A UNIQUE FRACTURE
20 LINES TO THAT OBJECT BECAUSE THE ROOFS COLLAPSED AND THE
21 PIECES HAVE COLLAPSED AND EVEN THOUGH THEY ARE MADE IN
22 MOLDS, YOU KNOW, THERE ARE AIR POCKETS IN THE CLAY.
23 THERE'S ALL KINDS OF UNIQUE -- YOU KNOW, THERE ARE
24 IMPURITIES THAT ARE THERE. THERE IS WEAKNESSES. THE
25 FIRING TECHNIQUE. YOU KNOW, NOTHING IS EXACTLY THE

1 SAME.

2 SO THE BREAKAGE IS GOING TO BE DIFFERENT.

3 AND THE INTRODUCTION OF NEW MATERIAL AND AREAS OF REPAIR

4 VERSUS RESTORATION IS GOING TO BE UNIQUE TO THAT ITEM.

5 IT'S NOT ANY DIFFERENT THAN IF WE TOOK A DISH AND

6 DROPPED IT ON A CEMENT FLOOR AND YOU DID THE SAME DISH A

7 HUNDRED TIMES IN A ROW, YOU ARE GOING TO HAVE TOTALLY

8 DIFFERENT FRAGMENTS OF THAT DISH. AND THAT'S EXACTLY

9 WHAT HAPPENED, YOU KNOW, WHEN THE ROOF COLLAPSED HERE.

10 Q. BUT IN THIS BILL OF -- THIS BILL THAT YOU HAVE

11 IN FRONT OF YOU THERE, THE CULTURAL RELICS VALUE BILL,

12 MULTIPLE STATUES ARE VALUED AT THE SAME AMOUNT?

13 A. THEY ARE BECAUSE THAT'S -- BREAKAGE IS VIRTUALLY

14 IMMATERIAL. MAYBE THEY WERE USING AS, YOU KNOW,

15 FIRST-CLASS AND SO ON, THAT THE BREAKAGE WAS LESS THAN

16 OTHER COMPARABLE EXAMPLES IN THEIR COLLECTION THAT MAY

17 HAVE BEEN ONE OF THE CRITERIA FOR THE FIRST-CLASS

18 DESIGNATION. BUT THAT DOESN'T MEAN THE SHAPE OF THE

19 BREAKS ARE IDENTICAL, NOR THAT THERE IS AN IDENTICAL

20 AMOUNT. THEY DIDN'T MEASURE OUT, YOU KNOW, WITH A

21 MILLIMETER SCALE THE NUMBER -- THE AMOUNT OF CLAY THAT

22 THEY WERE INTRODUCING THAT'S NEW INTO THOSE AREAS THAT

23 NEED REPAIR. THEY JUST WERE NOT DOING IT BECAUSE THE

24 OVERALL EFFECT IS WHAT THEY WERE AFTER, WHICH IS PUTTING

25 THIS BACK TOGETHER AND GIVING THAT EXPERIENCE TO THE

1 PEOPLE WHO ARE GOING TO VIEW IT.

2 Q. SO LET'S GET BACK TO PAGE 15 OF YOUR REPORT
3 WHERE WE TALK ABOUT THIS MATH. AND WHAT I AM TO GOING
4 TO READ HERE -- AND JUST FOLLOW IT WITH ME AND MAKE SURE
5 THAT I AM READING IT CORRECTLY AND THAT IT IS STATED
6 CORRECTLY:

7 A PRELIMINARY CALCULATION SHOWS
8 APPROXIMATELY 450,000 CUBIC CENTIMETERS OF MATERIAL IN
9 THE FIGURE. YOU ARE TALKING ABOUT THE CAVALRYMAN,
10 CORRECT?

11 A. YES.

12 Q. AND THE DIGIT HAS APPROXIMATELY 13 CUBIC
13 CENTIMETERS OF MATERIAL. AND THAT'S BASED ON YOUR
14 REVIEW OF PHOTOGRAPHS AND SUCH, CORRECT?

15 A. CORRECT.

16 Q. YOU WERE NOT ABLE TO OBVIOUSLY TOUCH OR HANDLE
17 THESE ITEMS?

18 A. NO. AND I AM SURE THE NUMBERS CAN BE FINE-TUNED
19 BECAUSE THEY WEREN'T MEASURING IT, YOU KNOW, WITH THIS
20 INTENT.

21 Q. SO DIVIDING THESE, MEANING 450,000 DIVIDED BY
22 13, EQUALS 34,615 DIGITS YOU HAVE THERE. DO YOU MEAN
23 LIKE UNITS?

24 A. YES. DIGIT -- YEAH. DIGIT-SIZED UNITS OF
25 MATERIAL, ROUGHLY.

1 Q. AND DIVIDING THAT NUMBER INTO THE \$4.5 MILLION
2 INSURED VALUE, YOU COME TO A NUMBER OF \$130 FOR EACH
3 DIGIT-SIZED SECTION OF THE CAVALRYMAN; IS THAT CORRECT?

4 A. RIGHT.

5 Q. SO ASSUMING THAT THE DIGITS WILL HAVE HISTORICAL
6 APPEAL, MIGHT EQUAL A MULTIPLE IN THIS AMOUNT, BUT IT IS
7 DIFFICULT TO COME TO A VALUATION HIGHER THAN \$1,000?

8 A. BECAUSE YOU ARE DEALING WITH HUMAN SENTIMENT. I
9 MEAN, I AM ASSUMING THAT THERE IS GOING TO BE ALMOST NO
10 CHINESE PERSON THAT IS GOING TO BE INTERESTED IN THIS.
11 YOU KNOW, THAT'S SOMEBODY LIVING IN THE MAINLAND. FOR A
12 VARIETY OF REASONS, THEY ARE JUST NOT GOING TO BE
13 INTERESTED. NOBODY IN THE HIGH-END WORLD, MY WORLD,
14 WOULD BE INTERESTED. NONE OF THE PEOPLE WHO ARE THE
15 OWNERS OR THE -- INVOLVED IN ANY OF THE INTERNATIONAL
16 ART AUCTION HOUSES IS GOING TO BE INTERESTED.

17 SO YOU ARE -- YOU KNOW, YOU ARE -- IN ALL
18 LIKELIHOOD, IT JUST DOESN'T -- UNLESS YOU HAVE THE
19 IMPRIMATUR OF THE GOVERNMENT SAYING YOU CAN SELL THIS.
20 AND THEN YOU GET INTO THE ISSUE OF HOW DO YOU PROVE THAT
21 THIS IS WHAT IT IS? THERE IS A LOT OF GRAY POTTERY
22 SHARDS EVERYWHERE AND YOU CAN BUY A TORSO OF A HORSE
23 THAT WOULD BE EXACTLY THE SAME EVEN IF YOU DIDN'T GET
24 WHAT'S CALLED A TL TEST.

25 Q. WHAT IS A TL TEST?

1 A. THERMOLUMINESCENCE TEST. IT WILL GIVE YOU A
2 RANGE OF DATES THAT WILL ESTABLISH THE DATE FOR A
3 PARTICULAR OBJECT THAT HAS BEEN FIRED.

4 Q. SO IN YOUR APPRAISAL, YOU HAVE KIND OF THE FAIR
5 MARKET VALUE, WHICH YOU CAME TO A NUMBER OF \$1,000 BY
6 LOOKING AT THE COMPARABLES, CORRECT?

7 A. MM-HMM.

8 Q. AND THEN THIS ALTERNATIVE METHOD WHERE YOU KIND
9 OF DID THE MATH AND BROKE DOWN BASED ON THE INSURANCE
10 VALUE, CORRECT?

11 A. YES.

12 Q. AND THAT WAS A BASE OF \$130, BUT THEN YOU IT
13 ROUNDED UP TO --

14 A. I ROUNDED IT UP JUST ON, YOU KNOW, MAYBE
15 SOMEBODY IN A COLLECTABLES MARKET WOULD BE ENTHUSIASTIC
16 ABOUT HAVING SOME SORT OF A RELIC AND MIGHT BE WILLING
17 TO PAY AT THE UPPER END SOMETHING IN THAT RANGE. I DO
18 NOT BELIEVE IT'S POSSIBLE FOR ME TO ACHIEVE THAT KIND OF
19 PRICE IN -- COMMERCIALLY WITHIN THE WORLD I KNOW.

20 MS. MACEOIN: THANK YOU VERY MUCH.

21 THE COURT: CROSS-EXAMINE.

22 CROSS EXAMINATION

23 BY MS. NEWTON:

24 Q. GOOD AFTERNOON, MR. MASON.

25 A. GOOD AFTERNOON.

1 Q. I WOULD LIKE TO TALK TO YOU -- GIVE ME ONE
2 SECOND.

3 MS. NEWTON: EXCUSE ME, YOUR HONOR. GIVE
4 ME ONE SECOND.

5 BY MS. NEWTON:

6 Q. I WOULD LIKE TO TALK ABOUT SOME ASPECTS OF YOUR
7 REPORT. IN YOUR REPORT YOU ACTUALLY DESCRIBE THE
8 CAVALRYMAN'S THUMB, DIDN'T YOU?

9 A. I ACTUALLY -- I DID VERY BASICALLY AND -- YES.

10 Q. AND YOU DESCRIBED IT AS MODELED REALISTICALLY
11 WITH CLEARLY DELINEATED NAILBED AND OTHER FEATURES; IS
12 THAT RIGHT?

13 A. YES.

14 Q. SO THAT'S NOT SOMETHING THAT COMES OUT OF A
15 MOLD, IS IT?

16 A. WELL, IT DOES AND IT DOESN'T. I MEAN THE DIGIT
17 ITSELF WOULD HAVE COME OUT OF A MOLD. THE LITTLE
18 INCISED DETAILS MAY HAVE BEEN DONE BY HAND.

19 Q. SO IF I TOLD YOU THAT CHINESE ARCHAEOLOGISTS AND
20 CHEMISTS WHO WORK AT THE EMPEROR QIN SHI HUANG SITE SAID
21 THAT THIS THUMB WAS ACTUALLY HAND DONE, ARE YOU SAYING
22 THAT'S WRONG?

23 A. NO, I AGREE WITH THEM.

24 Q. AND YOU ALSO STATED THAT THIS MARKET FOR THE
25 CAVALRYMAN IS LIMITED, DIDN'T YOU?

1 A. MM-HMM.

2 Q. AND THE REASON FOR THAT IS BECAUSE IT'S ILLEGAL
3 IN CHINA TO BUY OR SELL A TERRACOTTA WARRIOR, CORRECT?

4 A. YES.

5 Q. IN FACT, IT'S ILLEGAL TO SELL ANY PIECE OF A
6 TERRACOTTA WARRIOR; IS THAT RIGHT?

7 A. CORRECT.

8 Q. SO THIS MARKET IS NOT LIMITED. THERE IS NO
9 MARKET, RIGHT?

10 A. CORRECT.

11 Q. AND YOU DESCRIBE THESE TERRACOTTA WARRIORS AS
12 MINGQI, RIGHT?

13 A. MM-HMM.

14 Q. WHICH MEANS THAT THESE ARE OBJECTS THAT WERE
15 CREATED TO BE PLACED IN A TOMB?

16 A. YES. SORRY.

17 Q. AND IN THIS CASE, THESE TERRACOTTA WARRIORS
18 THAT -- OF WHICH THE CAVALRYMAN IS ONE, THEY WERE
19 CREATED TO BE PLACED AROUND THE TOMB OF EMPEROR QIN SHI
20 HUANG; IS THAT RIGHT?

21 A. YES.

22 Q. AND QIN SHI HUANG WAS THE FIRST EMPEROR OF
23 CHINA, RIGHT?

24 A. YES, UNIFIED CHINA.

25 Q. UNIFIED CHINA AND CONSIDERED TO BE THE FOUNDING

1 FATHER OF CHINA?

2 A. YES.

3 Q. SO HE IS A VERY, VERY IMPORTANT FIGURE IN
4 CHINESE HISTORY; IS THAT RIGHT?

5 A. YES.

6 Q. AND WE ARE NOT JUST TALKING ABOUT -- WHEN WE
7 TALK ABOUT THE TERRACOTTA WARRIORS -- OBJECTS FROM JUST
8 ANY TOMB IN CHINA, ARE WE?

9 A. NO, BUT THERE ARE A LOT OF TOMBS IN CHINA THAT
10 ARE IMPORTANT.

11 Q. ARE THERE ANY OTHER TOMB THAT YOU CAN NAME IN
12 CHINA THAT IS AS IMPORTANT AS EMPEROR QIN SHI HUANG'S
13 TOMB?

14 A. WELL, I GUESS AS THE HIERARCHY OF IMPORTANCE,
15 HIS WOULD BE THE MOST IMPORTANT.

16 Q. SO IT CERTAINLY IS HIGHER AND MORE IMPORTANT
17 THAN THAT OF A WEALTHY BUSINESSMAN WHO USED CAMELS WHEN
18 HE WAS DOING HIS BUSINESS; IS THAT RIGHT?

19 A. YES.

20 Q. AND YOU ALSO SAID IN YOUR REPORT THAT FOR
21 MINGQI, DAMAGE OCCURS TO THESE OBJECTS WHILE THEY ARE IN
22 PLACE IN THE TOMB AND THAT IS EXPECTED, CORRECT?

23 A. YES.

24 Q. AND THIS DAMAGE DOES NOT IMPACT THE VALUE OF THE
25 OBJECT IF THE OBJECT HAS BEEN REPAIRED, RIGHT?

1 A. CORRECT.

2 Q. SO WHEN ARCHAEOLOGISTS WORKING ON A SITE -- ON
3 AN ANCIENT TOMB SITE ARE ABLE TO REPAIR THE OBJECT BY
4 DETERMINING WHICH FRAGMENTS FIT TOGETHER, THE FACT THAT
5 THE OBJECT WAS NOT FOUND WHOLE AND THE OBJECT IS ABLE TO
6 BE PIECED TOGETHER, THAT DOES NOT IMPACT THE VALUE, DOES
7 IT?

8 A. IT DEPENDS ON THE AMOUNT OF DAMAGE THAT OCCURS
9 AND HOW MANY OF THE OTHER PIECES IN THAT SAME TOMB ARE
10 IN BETTER CONDITION OR WORSE CONDITION.

11 Q. SO IF THERE ARE OTHER PIECES THAT ARE IN BETTER
12 CONDITION, THAT WOULD BE MORE VALUABLE THAN ONE THAT IS
13 IN NOT-SO-GOOD CONDITION?

14 A. AGAIN, DEPENDING ON HOW MANY OF THEM ARE
15 AVAILABLE ON THE MARKET.

16 Q. IF THERE IS LESS OF THEM, THEN IT WOULD BE MORE
17 VALUABLE IN THE MARKET; IS THAT RIGHT?

18 A. IF THERE ARE FEWER OF THEM AVAILABLE IN THE
19 MARKET, BUT THEY ARE IN THE BODY OF MATERIAL THAT ARE
20 AVAILABLE TO BE LOOKED AT THERE IS A CONSIDERABLE
21 NUMBER, THEN IT WOULD.

22 Q. AND THE VALUE OF THE SAME OBJECT COULD BE
23 IMPACTED IF MORE PIECES -- LET'S SAY WE HAD TWO. SO
24 LET'S SAY THERE ARE TWO KNEELING ARCHERS THAT ARE FOUND
25 AND THEY ARE RESTORING AND HAVE BEEN RECOVERED AT THE

1 TOMBS. AND OF THESE TWO KNEELING ARCHERS, ONE HAS MORE
2 PIECES THAT HAVE BEEN UNABLE TO BE FOUND AND THAT ARE
3 MISSING, THE ONE THAT HAS MORE PIECES MISSING WOULD NOT
4 BE VALUED AS HIGHLY.

5 IS THAT RIGHT?

6 A. IT DEPENDS ON THE NATURE OF WHAT IS MISSING AND
7 THE QUANTITY. AGAIN, IT'S NOT AN EXACT SCIENCE.

8 Q. SO FOR EXAMPLE --

9 A. THERE IS A BAND -- YOU KNOW, IT DIFFERS FROM
10 OBJECT TO OBJECT.

11 Q. SO FOR OUR TWO KNEELING ARCHERS EXAMPLE, IF
12 THERE WAS ONE THAT HAD A PIECE THAT WAS MISSING FROM THE
13 SKIRT IN THE BACK OF IT, AND ANOTHER ONE THAT HAD A
14 FINGER THAT WAS MISSING, WOULD YOU VALUE -- WOULD THOSE
15 BE VALUED THE SAME, IN YOUR OPINION?

16 A. YES.

17 Q. EXACTLY THE SAME FOR THE SKIRT MISSING IN THE
18 BACK AND THE THUMB, THE FINGER?

19 A. WELL, BECAUSE THE ORIGINAL INTENT IS TO PRESENT
20 IT AS A WHOLE. SO UNLESS YOU HAVE A
21 SIGNIFICANT -- LET'S SAY YOU HAVE THE LEGS TOTALLY
22 MISSING ON ONE AND THE OTHER ONE HAD THE LEGS BROKEN BUT
23 THEY WERE THERE, THEN THERE IS GOING TO BE A SIGNIFICANT
24 DIFFERENCE. FOR SMALL AMOUNTS OF MATERIAL, THERE IS NOT
25 GOING TO BE ANY DIFFERENCE.

1 Q. IN YOUR OPINION, THAT LITTLE PIECE MISSING ON
2 THE BACK OF THE SKIRT AND THE FINGER, EXACTLY THE SAME,
3 RIGHT?

4 A. I DON'T THINK THERE IS ANY RELEVANT SIGNIFICANCE
5 IN TERMS OF A MARKET VALUE.

6 Q. MARKET VALUE, LET'S TALK ABOUT THAT FOR A
7 SECOND. SO A MARKET VALUE IS WHERE THERE IS A WILLING
8 BUYER AND A WILLING SELLER, RIGHT?

9 A. YES.

10 Q. AND WE HAVE ESTABLISHED THAT THERE IS NO MARKET
11 FOR TERRACOTTA WARRIORS, RIGHT?

12 A. WELL, THERE WOULD BE IF CHINA AUTHORIZED THE
13 SALE BUT THEY ARE NOT GOING TO AUTHORIZE THE SALE SO
14 THERE IS NO MARKET.

15 Q. SO THAT'S A HYPOTHETICAL. THAT'S NOT THE CASE,
16 RIGHT?

17 A. YES.

18 Q. SO AS OF RIGHT NOW, THERE IS ABSOLUTELY NO
19 MARKET FOR TERRACOTTA WARRIORS?

20 A. YES.

21 Q. SO THERE IS REALLY NO MARKET VALUE THAT CAN BE
22 ESTABLISHED FOR A TERRACOTTA WARRIOR, IS THERE?

23 A. WELL, YOU HAVE TO ESTABLISH VALUES FOR INSURANCE
24 PURPOSES FOR TRAVEL, WHICH IS WHAT THEY HAD.

25 Q. ABSOLUTELY. AND NOW WE ARE TALKING ABOUT -- SO

1 WE ARE ESTABLISHING A VALUE AND THAT'S NOT DEPENDING ON
2 THE MARKET VALUE, OF WHAT A BUYER WOULD PAY A SELLER,
3 RIGHT? YOU HAVE TO LOOK AT SOME OTHER METHOD?

4 A. WELL, YOU HAVE TO LOOK AT -- AGAIN, THEN YOU ARE
5 LOOKING AT COMPARABLES IN THE MARKETPLACE.

6 Q. LET'S TAKE A LOOK AT THE COMPARABLES THAT YOU
7 USED. BECAUSE WHEN YOU LOOK AT ITEMS, SOME OF THE
8 FACTORS THAT YOU CONSIDER INCLUDE SIZE, RIGHT?

9 A. YES.

10 Q. AND IT INCLUDES RARITY OF THAT PARTICULAR TYPE
11 OR MODEL, YES?

12 A. YES.

13 Q. AND INCLUDES THE FRAGILITY OF THE ITEM, RIGHT?

14 A. YES.

15 Q. SO FOR EXAMPLE, TERRACOTTA IS MORE FRAGILE, AS
16 YOU STATED, THAN BRONZE OR THAN JADE OR EVEN THAN
17 PORCELAIN?

18 A. YES.

19 Q. AND YOU ALSO NEED TO CONSIDER THE PROVENANCE?

20 A. YES.

21 Q. AND PROVENANCE IS A HISTORY OF OWNERSHIP, RIGHT?

22 A. YES.

23 Q. AND THAT -- ANOTHER FACTOR WOULD INCLUDE
24 HISTORIC ASSOCIATION, RIGHT?

25 A. YES.

1 Q. AND I THINK YOU SAID BEFORE WE GET TO THE
2 COMPARABLES, ON PAGE 11 OF YOUR REPORT, THAT MINGQI DO
3 NOT INCORPORATE SPECIFIC HAND POSITIONS.

4 A. NO.

5 Q. SO IN THE TERRACOTTA WARRIORS, WHEN THERE ARE
6 DIFFERENT TYPES OF WARRIORS THAT ARE THERE AND THEY HAVE
7 DIFFERENT HAND POSITIONS FOR THE TYPE, ARE YOU SAYING
8 THAT THAT'S NOT INCORPORATING DIFFERENT HAND POSITIONS?

9 A. NO. THEY ARE DEPICTING THE FUNCTION OF THE
10 FIGURE. YOU ARE NOT COMMUNICATING EXTRA INFORMATION.
11 IT'S NOT A LANGUAGE.

12 Q. SO IN OTHER WORDS -- SO YOUR VIEW OF THE
13 IMPORTANCE OF HANDS THEN IS ONLY IF IT COMMUNICATES
14 SOMETHING ELSE AS LANGUAGE AS OPPOSED TO COMMUNICATING
15 FUNCTION; IS THAT RIGHT?

16 A. NO. IT'S THE HUMANNESS OF THE FIGURE. WE ARE
17 DEPICT -- WHAT WAS INTENDED TO BE DEPICTED WAS THAT
18 THESE ARE SOLDIERS, GUARDIANS WHO ARE FULLY FUNCTIONAL
19 TO PERFORM THAT FUNCTION IN THE NEXT WORLD.

20 Q. AND BY LOOKING AT THE FIGURES WITH WHAT THEIR
21 HANDS ARE DOING, IT HELPS US DETERMINE IN SOME CASES
22 WHAT THOSE FIGURES WERE DOING, RIGHT?

23 A. YES.

24 Q. SO IF WE TURN TO YOUR COMPARABLES, THE FIRST ONE
25 THAT YOU LOOKED AT WAS A GREEN-GLAZED POTTERY FIGURE OF

1 A DUCK FROM THE HAN DYNASTY, RIGHT?

2 A. YES.

3 Q. YOU DIDN'T LIST THE SIZE OF THIS DUCK, DID YOU?

4 A. I DID NOT.

5 Q. DO YOU KNOW HOW LARGE THAT DUCK IS?

6 A. NO, THESE ARE NOT VERY LARGE. BUT THE
7 COMPARABLES THAT ARE HERE ARE FOR THE PURPOSES OF
8 LOOKING AT THE DIGIT, WHICH IS AN ELEMENT FROM THE
9 FIGURE. SO WE ARE NOT TAKING THAT FIGURE --

10 Q. MR. MASON, MY QUESTION WAS --

11 MS. MACEOIN: OBJECTION, YOUR HONOR, I
12 ASKED THAT HE BE ALLOWED TO FINISH HIS ANSWER.

13 THE COURT: HE HAS ANSWERED.

14 BY MS. NEWTON:

15 Q. YOU DIDN'T LIST THE SIZE OF THE DUCK, DID YOU?

16 A. I DID NOT.

17 Q. OKAY. AND THE DUCK YOU SAID IS SMALL, RIGHT?

18 A. YES. GENERALLY, THESE ARE ABOUT 10 INCHES LONG.

19 Q. AND WHEN I AM GOING TO COMPARE IT TO FOR THE
20 MOMENT IS TO THE CAVALRYMAN, THE TERRACOTTA WARRIOR.
21 THE TERRACOTTA WARRIOR IS LIFE-SIZED; IS THAT RIGHT?

22 A. YES.

23 Q. AND THIS DUCK FROM THE HAN DYNASTY, THERE IS NO
24 PROVENANCE LISTED FOR THIS DUCK, IS THERE?

25 A. YOU KNOW, I DIDN'T PUT IT IN IF THERE WERE.

1 SOMETIMES THERE IS BUT IT'S NEVER --

2 Q. LOOKING AT THIS --

3 A. -- I CAN TELL YOU IT'S NEVER INCLUDED IN THE
4 NAME OF THE TOMB THAT THESE THINGS COME FROM.

5 Q. SO IN OTHER WORDS --

6 A. NEVER, NEVER.

7 Q. WE DON'T KNOW WHO THE OWNER -- WE DON'T KNOW THE
8 HISTORY OF THE OWNERSHIP OF THIS PARTICULAR DUCK, DO WE?

9 A. WE WOULD KNOW -- NOT THIS PARTICULAR -- WELL, WE
10 PROBABLY WOULD IF I WENT BACK AND INCLUDED IT. BUT IT'S
11 NOT GOING TO BE THE ORIGINAL OWNER OF THE DUCK, THE
12 CHINESE PERSON WHO DIED WHO HAD THIS INCLUDED IN THE
13 TOMB.

14 Q. BECAUSE WE DON'T KNOW WHO THAT IS?

15 A. WE DON'T KNOW WHO THAT IS. AND THAT INFORMATION
16 IN SOME CASES WAS KNOWN, BUT IT WAS FROM A PERIOD OF
17 TIME WHERE THOSE RECORDS WERE NOT CONSIDERED IMPORTANT.

18 Q. AND FOR YOUR REPORT, MR. MASON, YOU DON'T
19 HAVE -- YOU DON'T KNOW WHAT TOMB THIS DUCK CAME FROM --

20 A. CORRECT.

21 Q. -- DO YOU?

22 NOW, THE HAN DYNASTY WAS THE DYNASTY
23 RIGHT AFTER THE QIN DYNASTY; IS THAT RIGHT?

24 A. YES.

25 Q. SO IT'S 100 YEARS LATER, PERHAPS?

1 A. IT COULD BE TEN YEARS LATER. SO IT WAS
2 IMMEDIATELY AFTERWARD.

3 Q. IT WAS RIGHT AFTER. ALL RIGHT.

4 NOW, THIS PARTICULAR DUCK, IT DOESN'T
5 APPEAR TO BE MISSING ANY PARTS FROM IT, DOES IT?

6 A. YOU KNOW, ON THIS ONE, THE CONDITION REPORT
7 STATES THAT THERE WERE RESTORED BREAKS OF THE NECK,
8 LEGS, FEET; RETOUCHING OF THE GLAZE -- SO THAT WOULD
9 MEAN THAT THE GLAZE HAS FLAKED -- AND OTHER SMALL
10 LOSSES, SO NOT MUCH IN THE WAY OF RESTORATION.

11 Q. ALL RIGHT. SO THAT WAS MY QUESTION.

12 A. MORE OF REPAIR.

13 Q. I DIDN'T ASK YOU ABOUT RESTORATION. WHAT I
14 ASKED YOU IS, THIS DOES NOT APPEAR THAT THERE ARE ANY
15 PIECES MISSING FROM THIS DUCK, DOES THERE?

16 A. ASIDE FROM THE GLAZE.

17 Q. THE GLAZE IS JUST THE TOP LAYER, WHICH WOULD BE
18 FLAKING OR SMALL PIECES, NOT ACTUALLY A PIECE OF THE
19 PHYSICAL -- THE PHYSICAL DUCK BODY THAT IS MISSING,
20 CORRECT?

21 A. NO, YOU ARE CORRECT.

22 Q. NOW, IF YOU COULD TAKE A LOOK AT YOUR SECOND
23 ITEM, WHICH IS THE CHINESE PAINTED POTTERY FIGURE OF A
24 BACTRIAN CAMEL FROM THE TANG DYNASTY.

25 A. YES.

1 Q. FOR THIS PARTICULAR ITEM, ACCORDING TO YOUR
2 CONDITION REPORT HERE, THERE IS A PIECE MISSING, THE
3 PROPER LEFT EAR.

4 A. CORRECT.

5 Q. RIGHT, AND THAT THE SURFACE IS FLAKING AND
6 LIFTING.

7 A. YES.

8 Q. HOW BIG IS THIS CAMEL?

9 A. THE SPECIFIC SIZE ON THESE I DID NOT INCLUDE. I
10 CAN TELL YOU WHAT THEY USUALLY ARE, IF THAT'S HELPFUL.

11 Q. CERTAINLY.

12 A. OKAY. SO THIS TYPE IS USUALLY ABOUT 12 INCHES
13 HIGH.

14 Q. SO IT'S ABOUT A FOOT HIGH?

15 A. YES.

16 Q. AND THE -- THIS IS FROM THE TANG DYNASTY, RIGHT?

17 A. YES.

18 Q. AND THAT TANG DYNASTY IS ABOUT 1,000 YEARS AFTER
19 THE QIN DYNASTY, CORRECT?

20 A. IT'S ACTUALLY NOT. IT'S 600 A.D.

21 Q. AND HOW LONG DOES THE TANG DYNASTY GO ON?

22 A. IT GOES THROUGH THE TENTH CENTURY.

23 Q. SO IT'S A PRETTY LONG PERIOD OF TIME.

24 A. IT IS.

25 Q. DO YOU KNOW WHEN IN THE TANG DYNASTY THAT THIS

1 PARTICULAR ITEM WAS CREATED?

2 A. THEY TENDED TO BE THE SAME SORT OF MODELS. THE
3 EARLIER MODELS TEND TO BE A STRAW COLOR, A YELLOW COLOR.
4 THE LATER ONES TEND TO HAVE MORE COLOR.

5 Q. ARE YOU ABLE TO TELL FROM THIS PARTICULAR ONE
6 WHICH -- WHICH -- WHERE THIS WAS FROM?

7 A. I AM NOT ABLE TO GIVE YOU A SPECIFIC PERIOD OF
8 TIME.

9 Q. AND WE ALSO, AGAIN, DO NOT KNOW WHICH TOMB THIS
10 CAME FROM, DO WE?

11 A. CORRECT.

12 Q. AND WE HAVE NO PROVENANCE FOR THIS PARTICULAR
13 TANG CAMEL, DO WE?

14 A. NOT IN MY DOCUMENT. I AM SURE THAT THERE WOULD
15 BE.

16 Q. BUT YOU DON'T KNOW WHEN IT IS, AND YOU DIDN'T
17 PUT IT IN YOUR REPORT, DID YOU?

18 A. I DID NOT PUT THAT IN THE REPORT, NO.

19 Q. IF WE LOOK AT NUMBER 3 -- PERHAPS YOU CAN HELP
20 ME -- SANCAI?

21 A. SANCAI.

22 Q. SANCAI GLAZED --

23 A. THREE COLOR.

24 Q. -- POTTERY FIGURE OF A CAMEL, ANOTHER CAMEL FROM
25 THE TANG DYNASTY, CORRECT?

1 A. YES.

2 Q. THIS ONE AGAIN, YOU DID NOT LIST THE DIMENSIONS,
3 DID YOU?

4 A. I DID NOT.

5 Q. MS. RABSTEJNEK USED THIS SAME CAMEL IN HER
6 REPORT, DIDN'T SHE?

7 A. I DIDN'T CHECK HER REPORT, SO I DON'T KNOW.

8 Q. DID YOU CONSULT WITH MS. RABSTEJNEK WHEN YOU
9 WERE PREPARING YOUR REPORTS?

10 A. I DID NOT.

11 Q. SHE HAS INDICATED THAT THIS PARTICULAR CAMEL WAS
12 23 AND THREE-QUARTERS INCHES TALL.

13 DOES THAT MAKE SENSE TO YOU?

14 A. IT DOES MAKE SENSE.

15 Q. AND THIS PARTICULAR CAMEL, ACCORDING TO THE
16 CONDITION REPORT, ALTHOUGH THERE HAD BEEN SOME
17 REATTACHMENT OF PARTS AND SOME DEGRADATION OF THE GLAZE,
18 THERE'S NO PIECES MISSING, IS THERE?

19 A. THAT'S ACTUALLY NOT TRUE BECAUSE IT SAYS SHOWING
20 SIGNS OF RESTORATION, WHICH WOULD INDICATE NEW MATERIAL
21 HAS BEEN ADDED.

22 Q. MY QUESTION WAS, THERE AREN'T LISTED THERE'S ANY
23 PIECES MISSING, DOES THERE?

24 A. THAT WOULD BE -- THAT WOULD INFER MISSING
25 PIECES.

1 Q. I'M SORRY. WHEN YOU SAY "RESTORATION," THAT
2 MEANS A PIECE IS MISSING?

3 A. YES, AND THEY PUT IN NEW MATERIAL FOR THE
4 MISSING PIECE.

5 Q. AND DOES THAT --

6 A. WE DON'T KNOW HOW BIG THAT WOULD BE, AND IT'S
7 NOT UNUSUAL WHERE YOU HAVE A BREAK WHERE THERE WILL BE,
8 YOU KNOW, THINGS THAT ARE JUST PULVERIZED AND FALL OFF.

9 Q. BUT IN HERE, THIS ONE WAS ACTUALLY -- IT WAS
10 RESTORED TO APPEAR AS A WHOLE CAMEL, CORRECT?

11 A. YES.

12 Q. NOW, LOOKING AT THE NEXT FIGURE, WHICH IS
13 NUMBER 4, ANOTHER LARGE PAINTED POTTERY FIGURE OF A
14 BACTRIAN CAMEL, AGAIN, FROM THE TANG DYNASTY. AND
15 AGAIN, THERE IS NO DIMENSION LISTED.

16 ABOUT HOW BIG IS THIS CAMEL?

17 A. PROBABLY CLOSE TO THE SAME SIZE AS THE OTHER. I
18 DON'T KNOW. YOU KNOW, I DID NOT PUT THAT IN THE REPORT.

19 Q. AND WE DON'T KNOW WHICH TOMB THIS IS FROM, DO
20 WE?

21 A. CORRECT.

22 Q. AND WE DON'T HAVE ANY PROVENANCE FOR THIS CAMEL,
23 DO WE?

24 A. NOT FROM THE CHINESE TOMB, NO.

25 Q. AND IN THIS PARTICULAR -- THIS PARTICULAR ITEM,

1 AGAIN, THERE IS A -- THE CONDITION REPORT LISTS THAT
2 THERE WERE BREAKS, THERE WERE REPAIRS. AND THERE IS
3 ALSO -- ONE OF THE FOUR LEGS WAS REPLACED, WHICH MEANS
4 TO YOU, IN YOUR WORDS, THAT'S RESTORATION, CORRECT?

5 A. LET'S SEE. EXPECTED BREAKS TO ALL FOUR LEGS,
6 UPPER SECTION OF ONE OF THE FOUR LEGS IS REPLACED.

7 SO THAT WOULD BE A RESTORATION, YES.

8 Q. BUT HERE THE CAMEL APPEARS TO BE -- WITH THE
9 RESTORATION REPAIR, APPEARS TO BE COMPLETE.

10 IS THAT A FAIR STATEMENT?

11 A. YES.

12 MS. NEWTON: AND IF YOU TAKE A LOOK AT
13 NUMBER 5 FOR ME ON THE NEXT PAGE, ANOTHER GRAY POTTERY
14 CAMEL, AGAIN FROM THE TANG DYNASTY.

15 BY MS. NEWTON:

16 Q. AND HERE, THIS ONE, AGAIN YOU'VE INDICATED THAT
17 IT HAS SOME RESTORATION BUT -- AND OTHER THAN TYPICAL
18 FLAKING AND LOSS TO THE PAINTED SURFACE, IT APPEARS TO
19 BE COMPLETE.

20 A. YES.

21 Q. IS THAT FAIR?

22 HOW LARGE IS THIS CAMEL?

23 A. IT'S LIKELY TO BE SIMILAR TO THE SIZE OF THE
24 OTHER ONE THAT WE HAD HERE BEFORE, NUMBER 2. BUT I
25 DON'T KNOW.

1 MS. NEWTON: AND LOOKING AT NUMBER 6,
2 ANOTHER SANCAI FIGURE OF A BACTRIAN CAMEL, AGAIN FROM
3 THE TANG DYNASTY.

4 BY MS. NEWTON:

5 Q. AND HERE AGAIN, LOOKING AT THE CONDITION REPORT,
6 THERE HAVE BEEN BREAKS. IT HAD -- IT'S BEEN REPAIRED
7 AND OTHERWISE IS IN GOOD CONDITION.

8 IS THAT A FAIR STATEMENT?

9 A. YES.

10 Q. SO THERE ARE NO PIECES MISSING FROM -- FROM
11 LOOKING -- THIS APPEARS TO BE COMPLETE, CORRECT?

12 A. YES. AND THESE CONDITION REPORTS ARE NOT MINE.
13 THESE WERE PROVIDED THROUGH THE AUCTION HOUSE EXPERTS.

14 Q. SO YOU ARE JUST ADOPTING WHAT THE AUCTION HOUSE
15 HAD TOLD YOU ABOUT THESE?

16 A. WELL, THEY PUBLISHED THIS, AND THESE ARE ALL
17 GUARANTEED BY THE AUCTION HOUSE. IF THEY FIND OUT THAT
18 THEY ARE NOT ACCURATE, THEY ARE RETURNED TO THE AUCTION
19 HOUSE.

20 Q. SO YOU DIDN'T -- FOR ANY OF THESE OBJECTS, YOU
21 DIDN'T ACTUALLY LOOK AT THE OBJECTS THEMSELVES, YOU JUST
22 LOOKED AT WHAT YOU -- INFORMATION YOU OBTAINED FROM THE
23 AUCTION HOUSES; IS THAT RIGHT?

24 A. I DID. AND THE ONLY AUCTION HOUSE THAT I KNOW
25 THAT PUBLISHES AND GUARANTEES ONLINE IN THEIR DATABASE

1 IS SOTHEBY'S, WHICH IS WHY I USED THAT AS THE CHOICE.

2 MS. NEWTON: NOW, IF WE COULD TAKE A LOOK
3 AT -- THEN YOU HAVE A SECOND GROUP THAT YOU STATED THAT
4 YOU USED, NOT THE ANIMAL FIGURES ANYMORE BUT NOW WE ARE
5 LOOKING AT SOME OTHER TYPES OF FIGURES.

6 AND AGAIN, LOOKING AT NUMBER 7, THE
7 SANCAI GLAZED POTTERY FIGURE FROM THE TANG DYNASTY AND
8 AGAIN --

9 BY MS. NEWTON:

10 Q. WHAT -- ANY IDEA ON THE DIMENSIONS OF THIS
11 FIGURE?

12 A. I DO. THESE ARE USUALLY QUITE LARGE.

13 Q. HOW LARGE IS "QUITE LARGE"?

14 A. ANYWHERE FROM 36 TO 40-SOMETHING INCHES HIGH.

15 Q. SO WE'RE TALKING 3 FEET TO LESS THAN 4 FEET. IS
16 THAT A FAIR STATEMENT?

17 A. SOMEWHERE IN THERE. 3 OR 4 FEET USUALLY.

18 Q. ALL RIGHT. AND THIS, AGAIN, IS FROM THE TANG
19 DYNASTY, AND IT ALSO APPEARS, FROM THE CONDITION REPORT,
20 WHICH YOU PUT IN YOUR REPORT, THAT THERE WERE RESTORED
21 BREAKS BUT THERE DO NOT APPEAR TO BE -- THE OBJECT IS
22 COMPLETE. THERE ARE NO PIECES MISSING FROM THIS OBJECT.

23 IS THAT A FAIR STATEMENT?

24 A. WELL, THERE'S RESTORATION ON THE FINGERS OF THE
25 OPEN HAND, WHICH WOULD BE, AGAIN -- YOU KNOW, AND IT

1 SAYS GLAZED RESTORATION, WHICH IN -- YOU KNOW, NEW
2 MATERIAL HAS BEEN USED.

3 MS. NEWTON: LOOKING AT NUMBER 8, THIS IS
4 ANOTHER FIGURE FROM THE TANG DYNASTY.

5 BY MS. NEWTON:

6 Q. HOW LARGE IS THIS ONE?

7 A. IT WOULD BE ABOUT THE SAME SIZE.

8 Q. SO YOU ARE SAYING THIS ONE AGAIN IS SOMEWHERE
9 BETWEEN 3 AND 4 FEET?

10 A. USUALLY THAT'S THE SIZE, YES.

11 Q. COULD IT BE SMALLER?

12 A. IT -- VERY SLIGHTLY. NO. I DOUBT IT. IT COULD
13 BE. THESE ARE FAIRLY COMMON FIGURES THAT COME UP FOR
14 SALE.

15 Q. "COMMON"? WHEN YOU SAY "COMMON," WHAT DO YOU
16 MEAN BY "COMMON"?

17 A. THAT MEANS THEY COME UP FOR SALE WITH ENOUGH
18 REGULARITY THAT THE SIZE IS RELATIVELY PREDICTABLE.

19 Q. SO THESE ARE NOT -- YOU WOULD NOT CALL THESE
20 PARTICULARLY RARE. IS THAT A FAIR STATEMENT?

21 A. THEY BECOME RARE BY VIRTUE OF THE DETAILED WORK
22 THAT TAKES PLACE ON THE FIGURE, YOU KNOW, PAINTING,
23 GILDING, OTHER KINDS OF THINGS THAT CAN OCCUR.

24 Q. SO IF I UNDERSTAND YOU CORRECTLY, THESE ARE
25 COMMON IN ONE SENSE, BUT PERHAPS THEY'RE RARE IN ANOTHER

1 SENSE?

2 A. NO. IT DEPENDS ON THE INDIVIDUAL FIGURE, HOW
3 MUCH HAND- -- YOU KNOW, YOU CAN SAY HANDWORK BUT
4 ADDITIONAL WORK TOOK PLACE.

5 Q. SO HANDWORK --

6 A. SO THIS BASIC -- YOU HAVE A BASIC MODEL, BECAUSE
7 THESE CAME OUT OF MOLDS. SO IF YOU WANTED TO BUY THE
8 INEXPENSIVE VERSION, IT MIGHT BE UNPAINTED. AND IF YOU
9 WANTED TO GET THE REALLY FANCY VERSION, IT WOULD BE VERY
10 LARGE AND IT WOULD BE GILDED AND IT WOULD HAVE LOTS OF
11 HAND-PAINTING AND MAYBE AN ADDITIONAL COLOR SUCH AS
12 BLUE, AND THE MODELING WOULD BE A LITTLE BIT BETTER.

13 Q. SO IF I UNDERSTAND YOU CORRECTLY, THESE COME
14 FROM A MOLD. IF THEY HAVE MODELING, THEN THAT CAN
15 INCREASE THE VALUE OF THEM.

16 IS THAT A FAIR STATEMENT?

17 A. DEPENDING ON HOW MUCH OF THE MODELING THERE IS,
18 YES, AND THE NATURE OF WHERE IT IS.

19 MS. NEWTON: LOOKING AT NUMBER 9, THIS IS
20 A HAN DYNASTY POTTERY HORSE.

21 BY MS. NEWTON:

22 Q. I BELIEVE YOU HAD TESTIFIED -- CORRECT ME IF I'M
23 WRONG -- THAT ORIGINALLY THIS PARTICULAR HORSE HAD
24 WOODEN LEGS ON IT; IS THAT RIGHT?

25 A. MANY OF THEM HAD WOODEN, SOME HAD CLAY, BUT A

1 LOT OF THEM HAD LACQUERED WOOD LEGS.

2 Q. AND WE DON'T KNOW WHAT TYPE THIS PARTICULAR
3 HORSE HAD, DO WE?

4 A. IF I HAD IT IN FRONT OF ME, I COULD TELL YOU,
5 BUT I CAN'T BECAUSE IT'S NOT, SO...

6 Q. YOU DIDN'T PUT IT IN YOUR REPORT, DID YOU?

7 A. WELL, AND IT WAS NOT IN THE ORIGINAL AUCTION
8 SALE CATALOGUE OR OTHERWISE, BECAUSE NOBODY KNOWS
9 BECAUSE THEY'VE BEEN DISASSOCIATED FROM THE FIGURE.

10 Q. SO WE DON'T KNOW; IS THAT CORRECT?

11 A. WE DON'T KNOW, CORRECT.

12 Q. AND AGAIN, WE DON'T KNOW WHAT TOMB THIS
13 PARTICULAR ITEM IS FROM, DO WE?

14 A. TRUE.

15 Q. AND AGAIN, WE HAVE ANOTHER HORSE FROM THE HAN
16 DYNASTY. AND SIMILARLY HERE, DID THIS ONE, TO YOUR
17 KNOWLEDGE, ORIGINALLY HAVE LEGS?

18 A. YOU CAN TELL THAT THEY DID BECAUSE THERE'S
19 APERTURES WHERE THE LEGS WOULD FIT IN.

20 Q. SO IN THIS CASE, THE LEGS ARE MISSING, RIGHT?

21 A. APPARENTLY SO, BECAUSE THEY ALL HAVE -- ALL OF
22 THESE MODELS THAT I AM AWARE OF HAVE THIS PLACE FOR THE
23 LEGS TO FIT.

24 Q. AND THIS ONE, AGAIN, WE DON'T KNOW WHAT TOMB
25 IT'S FROM, DO WE?

1 A. NO.

2 MS. NEWTON: AND LOOKING AT YOUR LAST
3 SET, THE SET OF 11 UNGLAZED POTTERY HORSE HEADS FROM THE
4 HAN DYNASTY.

5 BY MS. NEWTON:

6 Q. WE DON'T KNOW WHERE THESE ARE FROM, DO WE?

7 A. NO.

8 Q. MR. MASON, YOU STATED THAT YOU HAVE BEEN TO
9 XI'AN AND BEEN TO XI'AN SEVERAL TIMES AND ACTUALLY GOT
10 TO GO INTO ONE OF THE PITS ON A PLATFORM AND HAVE A
11 PHOTO TAKEN, DIDN'T YOU?

12 A. YES.

13 Q. ARE YOU FAMILIAR WITH THE CLASSIFICATION THAT
14 THE CHINESE GOVERNMENT USES FOR THE TERRACOTTA WARRIORS?

15 A. I AM IN A GENERAL SENSE. I AM NOT IN THE MUSEUM
16 WORLD, ALTHOUGH I HAVE BEEN A CURATOR AND ADVISED. BUT
17 IT'S NOT SOMETHING THAT I NEED TO DO IN MY CAREER. SO I
18 DON'T KNOW THE SPECIFICS OF THE CRITERIA THAT THEY USE.

19 Q. SO YOU DON'T -- YOU ARE NOT FAMILIAR --

20 A. EXCEPT IN A GENERAL SENSE.

21 Q. YOU ARE NOT FAMILIAR WITH THE FACT THAT A
22 CLASS 1 RELIC CAN ONLY BE CLASSIFIED AS CLASS 1 IF IT'S
23 CONSIDERED COMPLETE, IF IT'S WELL-PROPORTIONED, AND IF
24 IT HAS A VIVIDNESS TO THE FIGURE?

25 A. I'M -- I DID NOT. YOU KNOW, I DON'T KNOW THE

1 EXACT WORDS, BUT I UNDERSTAND THERE IS A DISTINCTION
2 BETWEEN CLASS 1 AND THE OTHER CLASSES.

3 Q. OKAY. AND SO YOU KNOW THERE'S A DISTINCTION,
4 BUT ARE YOU AWARE THAT CLASS 2 IS WHEN THE FIGURE IS NOT
5 COMPLETE, WHEN THERE IS SOME DAMAGE TO THE FIGURE?

6 ARE YOU AWARE OF THAT?

7 A. WHATEVER YOU ARE SAYING I AM SURE IS TRUE.

8 Q. AND CLASS 3 IS A FIGURE THAT'S --

9 MS. MACEOIN: OBJECTION, YOUR HONOR.

10 HE'S JUST TESTIFIED THAT HE IS NOT FAMILIAR WITH THE
11 CLASSIFICATION SYSTEM. SO HE'S ANSWERED THE QUESTION.

12 THE COURT: WELL, HE SAID GENERALLY, SO I
13 AM GOING TO OVERRULE THE OBJECTION.

14 BY MS. NEWTON:

15 Q. SO ARE YOU FAMILIAR WITH THE FACT THAT CLASS 3,
16 FOR THE TERRACOTTA WARRIORS, IS A HEAVILY DAMAGED
17 TERRACOTTA WARRIOR?

18 A. AGAIN, JUST -- NOT TO -- YOU KNOW, NOT
19 SPECIFICALLY UNTIL WHAT YOU'VE SAID.

20 Q. NOW, YOU TALKED ABOUT ON YOUR DIRECT EXAMINATION
21 THAT YOU DID LOOK AT THE LIST OF THE TERRACOTTA WARRIORS
22 AND THE HORSE THAT WERE LOANED TO THE FRANKLIN INSTITUTE
23 IN 2017, CORRECT?

24 A. THE LIST THAT'S HERE?

25 Q. YES, THAT --

1 A. YES.

2 Q. SO IT'S GOVERNMENT EXHIBIT 5, WHICH IS WHAT
3 YOU'RE LOOKING AT RIGHT NOW?

4 A. YES.

5 Q. AND ALL OF THE ITEMS THAT ARE LISTED ON THAT
6 PARTICULAR LIST ARE CLASS 1 RELICS, AREN'T THEY?

7 A. YES.

8 Q. AND THE VALUES LISTED FROM THOSE ITEMS RANGE
9 FROM APPROXIMATELY \$4.3 MILLION UP TO \$5.5 MILLION --

10 A. YES.

11 Q. -- IS THAT RIGHT?

12 YOU DIDN'T LOOK AT THE CONDITION REPORTS
13 FOR THOSE TEN OBJECTS, DID YOU?

14 A. NO, I DID NOT.

15 Q. SO YOU DON'T KNOW WHAT THE -- WHAT, IF ANY,
16 RESTORATION OR REPAIR WAS DONE TO ANY OF THOSE OBJECTS,
17 DO YOU?

18 A. I DON'T KNOW THE SPECIFIC TYPE OF RESTORATION OR
19 REPAIR, ONLY THAT THERE HAD TO BE SOME SORT OF
20 RESTORATION OR REPAIR.

21 Q. BECAUSE THE TERRACOTTA WARRIORS, AS YOU
22 TESTIFIED, WERE ALL FOUND IN FRAGMENTS; ISN'T THAT
23 RIGHT?

24 A. TO ONE DEGREE OR ANOTHER, YES.

25 Q. SO SOME, MORE FRAGMENTS THAN OTHER FRAGMENTS,

1 CORRECT?

2 A. YES.

3 Q. BUT TO YOUR KNOWLEDGE, THERE WAS NO TERRACOTTA
4 WARRIOR THAT WAS FOUND WHOLE, RIGHT?

5 A. I ACTUALLY DON'T -- YOU KNOW, THE NATURE OF
6 DAMAGE INCLUDES NOT JUST THE COLLAPSE OF THE TOMB. WE
7 ALL ARE UNDERGOING CHANGE. WE ALL AGE, AND WE HAVE --
8 AND THAT'S JUST A NATURAL PHENOMENON THAT HAPPENS WITH
9 EVERYTHING, WHETHER IT'S WATER ACTION, OXIDATION, FIRE,
10 WHATEVER IT IS. SO ALMOST CERTAINLY THERE WAS DAMAGE OF
11 SOME SORT THAT OCCURRED IN THE TOMB, EVEN FOR THINGS --
12 IF SOMETHING MIRACULOUSLY ESCAPED HAVING THE ROOF
13 COLLAPSE, THERE IS GOING TO BE SOME SORT OF DEGRADATION
14 TO THAT FIGURE THAT CHANGES IT FROM HOW IT ORIGINALLY
15 APPEARED.

16 Q. AND MY QUESTION TO YOU, MR. MASON, WAS: YOU
17 DON'T KNOW THAT THERE WAS ANY TERRACOTTA WARRIOR THAT
18 WAS FOUND WHOLE AT THE TERRACOTTA WARRIOR SITE, DO YOU?

19 A. NO.

20 Q. AND IT'S LIKELY THERE WAS NOT ONE THAT WAS FOUND
21 WHOLE, ISN'T IT?

22 A. LIKELY NOT.

23 Q. BECAUSE OF THE FRAGILITY OF TERRACOTTA, FOR
24 EXAMPLE, CORRECT?

25 A. CORRECT.

1 Q. AND THE WAY THAT THESE TOMBS WERE UNDERGROUND,
2 AND WE KNOW THAT ROOFS COLLAPSED AND THEY WERE FOUND IN
3 PITS, CORRECT?

4 A. CORRECT.

5 Q. SO ARE YOU AWARE THAT -- OF HOW MANY CAVALRYMEN
6 IN THE TERRACOTTA WARRIORS HAVE BEEN -- ACTUALLY BEEN --
7 WE'LL CALL IT -- RESTORED AND REPAIRED TO AN -- TO A --
8 AS COMPLETE AS THEY CAN BE IN THAT STATE?

9 A. A RELATIVELY SMALL NUMBER.

10 Q. A RELATIVELY SMALL -- DO YOU KNOW THAT IT'S SIX?

11 A. I DON'T REMEMBER THE NUMBER.

12 Q. DOES THAT SOUND -- DOES THAT SOUND CORRECT?

13 A. IT SOUNDS PLAUSIBLE, YES.

14 Q. ARE YOU AWARE THAT ONLY TWO OF THOSE SIX
15 CAVALRYMEN ARE CLASSIFIED AS CLASS 1 RELICS?

16 A. NOT UNTIL YOU TOLD ME, BUT THANK YOU.

17 Q. YOU ARE VERY WELCOME.

18 AND YOU ARE AWARE THAT THE CAVALRYMAN
19 THAT WAS AT THE FRANKLIN INSTITUTE WAS A CLASS 1 RELIC;
20 IS THAT RIGHT?

21 A. YES.

22 Q. IN TALKING ABOUT YOUR -- YOUR VALUATION, YOU
23 USED THIS CUBIC CENTIMETER APPROACH AND WHAT YOU STATED
24 WAS THAT YOU LOOKED AT DIGIT-SIZED VALUES AND BASED ON
25 THAT, SO THE THUMB THAT WAS BROKEN AND TAKEN FROM THE

1 CAVALRYMAN IS NOT ANY DIFFERENT FROM ANY OTHER PART ON
2 THAT CAVALRYMAN IN TERMS OF ITS VALUE TO THE WHOLE.

3 DO I UNDERSTAND WHAT YOU SAID CORRECTLY?

4 A. IF YOU ARE USING THAT SIZE MEASUREMENT. ALL THE
5 DISTINCTIVE FEATURES THAT MIGHT BE PRESENT, LET'S SAY,
6 WITH A FACE OR AN EAR WHERE YOU HAVE AN INTACT EAR OR --
7 YOU KNOW, THE EXAMPLE THAT WE HAVE HERE OF THE HORSE
8 HEADS, BECOMES FRAGMENTARY AND THEREFORE LOSES MOST OF
9 THE ARTISTRY THAT IS THERE. SO THERE MIGHT BE
10 INDIVIDUAL MINOR DISTINCTIONS IN TERMS OF VALUE.

11 IF YOU WENT THROUGH THAT PROCESS, I THINK
12 IT WOULD BE AN EXTRAORDINARILY DIFFICULT PROCESS TO TRY
13 TO FIGURE THAT OUT. BUT FOR THE VAST MAJORITY OF THE
14 PIECES THAT WOULD BE THERE, IT WOULD BE ALMOST
15 INDISTINGUISHABLE ONE FROM ANOTHER.

16 Q. IF I UNDERSTOOD YOU CORRECTLY, WHAT YOU ARE
17 SAYING IS THAT IT WOULDN'T MATTER WHAT DIGIT-SIZED PIECE
18 CAME FROM ANYWHERE ON THE CAVALRYMAN, YOU WOULD STILL
19 VALUE THAT AS REALLY \$130 BUT WE WILL UP IT BECAUSE OF
20 THE HISTORICAL ASSOCIATION?

21 A. I WOULD SAY THAT THE VALUE WOULD BE VERY
22 DIFFICULT TO DETERMINE, BECAUSE A LOT OF IT IS GOING TO
23 BE MARKET SENTIMENT AT THAT MOMENT, AND THE MAJORITY OF
24 THE PIECES ARE GOING TO BE INDISTINGUISHABLE. IT'S
25 GOING TO BE LIKE LOOKING AT A JIGSAW PUZZLE. YOU ARE

1 GOING TO LOOK AT IT AND THE MAJORITY OF THE THINGS, YOU
2 ARE GOING TO GO: WHAT PART OF THE PUZZLE IS THIS? I
3 CAN'T TELL. I CAN SEE WHEN IT'S ALL DONE, IT MAKES
4 SENSE, BUT THE INDIVIDUAL PIECES, I CANNOT SEE.

5 Q. LET ME ASK YOU THIS: THE THUMB IS RECOGNIZABLE
6 AS A THUMB, ISN'T IT?

7 A. IT IS.

8 Q. AND OTHER PARTS ARE RECOGNIZABLE AS WHAT THEY
9 ARE, EVEN IF THEY ARE SMALL PARTS, AREN'T THEY?

10 A. WELL, IF THEY ARE ALL THUMB SIZE, THOUGH. YOU
11 KNOW, YOU ARE GETTING PART OF A NOSE, YOU ARE GETTING
12 PART OF AN EYE. IT DEPENDS ON HOW THE BREAK IS ALSO.
13 YOU CAN HAVE THINGS THAT ARE BROKEN PERFECTLY SO THAT
14 YOU HAVE THE WHOLE NOSE THERE. AND THEN THE QUESTION
15 IS, HOW MANY PEOPLE WANT A TERRACOTTA NOSE? I THINK
16 THERE IS A VERY LIMITED MARKET.

17 Q. AGAIN, YOU ARE TALKING ABOUT IF -- IF THERE WAS
18 -- ALLOWED TO BE SOLD ON THE MARKET AND IF THAT WAS
19 TRUE, WHAT THIS DIGIT-SIZED PIECE COULD BE SOLD FOR ON
20 THE OPEN MARKET, RIGHT?

21 A. YES.

22 Q. BUT WE KNOW THAT THERE IS NO MARKET AND THAT
23 CAN'T BE DONE, CORRECT?

24 A. CORRECT.

25 Q. NOW, IF WE ARE LOOKING AT THIS IN TERMS OF YOU

1 KNOW THAT THE INSURED VALUE FOR EXAMPLE, OF THE
2 CAVALRYMAN IS 4-AND-A-HALF MILLION DOLLARS?

3 A. YES.

4 Q. AND YOU DON'T HAVE ANY ARGUMENT WITH THAT VALUE
5 FOR THE CAVALRYMAN, DO YOU?

6 A. NO.

7 Q. IN FACT, IT MIGHT EVEN BE CONSIDERED LOW, RIGHT?
8 IF IT WAS ABLE TO BE SOLD -- IF A COMPLETE CAVALRYMAN
9 WAS ABLE TO BE SOLD ON THE OPEN MARKET?

10 A. I WOULD JUST BE GUESSING.

11 Q. BUT YOU DON'T --

12 A. I HAVE NOT SEEN THEM, SO I CAN'T -- YOU KNOW. I
13 HAVE NOT SEEN THOSE OTHER FIGURES TO GO THROUGH THE
14 DETAIL PROCESS TO CHALLENGE OR NOT CHALLENGE THAT
15 OVERALL FIGURE.

16 Q. SO YOU -- AT THIS POINT --

17 A. SO I ACCEPT THAT FIGURE.

18 Q. YOU ACCEPT THE VALUE?

19 A. SURE.

20 Q. AND YOU UNDERSTAND THAT THESE WERE VALUED FOR
21 INSURANCE PURPOSES, RIGHT?

22 A. YES.

23 Q. AND THE IDEA THAT IS THAT BECAUSE THE INSURANCE
24 COMPANY ACCEPTED THE VALUATION OF THE CAVALRYMAN WHEN
25 THEY AGREED TO INSURE IT FOR 4-AND-A-HALF MILLION

1 DOLLARS, RIGHT?

2 A. YES.

3 Q. AND THE FRANKLIN INSTITUTE ACCEPTED THAT
4 VALUATION WHEN THEY AGREED TO PAY INSURANCE PREMIUMS FOR
5 THAT VALUE, CORRECT?

6 A. CORRECT.

7 Q. AND MY UNDERSTANDING IS THAT FINE ART POLICIES
8 CAN BE NOT INSIGNIFICANT; IS THAT RIGHT?

9 A. CORRECT.

10 Q. SO LET'S TAKE -- THE HYPOTHETICAL HERE IS WE
11 HAVE THE CAVALRYMAN, PERHAPS NOT SO HYPOTHETICAL, AND
12 THE THUMB HAS BEEN BROKEN OFF THE CAVALRYMAN AND IT'S
13 GONE BECAUSE IT HAS BEEN BROKEN OFF AND STOLEN AND AN
14 INSURANCE CLAIM IS MADE FOR THE BROKEN PIECE OF THE
15 CAVALRYMAN, YOU WOULD AGREE WITH THAT
16 THAT'S -- CERTAINLY THE INSURANCE COMPANY WOULD HAVE TO
17 PAY THE VALUE RELATIVE TO THE CAVALRYMAN FOR THAT PIECE,
18 WOULDN'T YOU?

19 A. IF THAT'S WHAT THEIR POLICY SAYS.

20 Q. CAN YOU THINK OF ANY ART INSURANCE POLICY THAT
21 WOULD NOT PAY FOR THE LOSS OF A PIECE OF A --

22 A. YES.

23 Q. -- OF A SCULPTURE?

24 A. YES, BECAUSE IN MANY CASES, WHAT THEY ARE DOING
25 IS THEY ARE PAYING FOR THE COST OF RESTORATION. IT

1 DEPEND ON WHAT THE POLICY STATES. SO THERE ARE
2 DIFFERENT POLICIES.

3 Q. WELL, ARE YOU AWARE THAT THE CHINESE GOVERNMENT
4 DOES NOT ALLOW RESTORED PIECES TO BE PUT ON THE ENDS OF
5 THEIR TERRACOTTA WARRIORS AT THIS POINT?

6 A. I AM NOT FAMILIAR WITH WHAT THE CHINESE
7 GOVERNMENT POLICY IS.

8 Q. SO LET'S MAKE ANOTHER ASSUMPTION. WE WILL MAKE
9 THE ASSUMPTION THAT YOU CAN'T JUST RESTORE BY PUTTING A
10 FAKE THUMB ON THE END OF THE CAVALRYMAN WHERE THE THUMB
11 IS BROKEN OFF. SO IF YOU CAN'T DO THAT, THEN THE
12 INSURANCE COMPANY IS GOING TO HAVE TO PAY FOR THE WORTH
13 OR THE VALUE OF THAT THUMB, CORRECT?

14 A. IF THAT'S -- AGAIN, IF THAT'S THEIR POLICY. I
15 DON'T KNOW.

16 Q. I HAVE ASKED YOU TO ASSUME. LET'S SAY THAT IS
17 THEIR POLICY.

18 A. IF THAT'S THEIR POLICY, I WOULD ASSUME THAT'S
19 WHAT THEY WOULD DO.

20 Q. AND IN LOOKING AT THAT, YOU WOULD LOOK AT WHAT
21 IS THE LOSS OF VALUE TO THE CAVALRYMAN FROM HAVING THAT
22 THUMB MISSING TO DETERMINE WHAT THE THUMB IS WORTH TO
23 THE CAVALRYMAN, CORRECT?

24 A. YES.

25 Q. NOW, IN YOUR VIEW, IS WHAT YOU ARE SAYING THAT

1 THAT'S WORTH \$130?

2 A. I THINK -- YOU KNOW, WHEN YOU -- I READ MR.
3 COHN'S REPORT WHERE HE STATED, I DON'T REMEMBER. YOU
4 CAN TELL ME HOW MUCH WAS THE VALUE HE CAME UP WITH FOR
5 THE RESTORATION? DO YOU REMEMBER?

6 Q. WELL, MR. MASON, WE ARE NOT TALKING ABOUT MR.
7 COHN'S REPORT. I AM ASKING YOU.

8 A. WELL, THE COST -- PART OF THE COST OF
9 RESTORATION IS THE PROCESS THAT ONE GOES THROUGH AS THE
10 INSTITUTION, BECAUSE YOU HAVE TO PERFORM CERTAIN THINGS
11 AND EVERY INSTITUTION IS DIFFERENT. SO THERE ARE
12 CERTAIN GUIDELINES WITHIN THE MUSEUM COMMUNITY FOR
13 RESTORATION THAT INVOLVE EXPENSES THAT ARE EXTRANEIOUS TO
14 THE ACTUAL REATTACHMENT OF THE THUMB, FOR INSTANCE.

15 Q. BUT IN THIS CASE, WE ARE SAYING THAT THE
16 THUMB -- THE THUMB HAS BEEN STOLEN. IT'S GONE. SO YOU
17 CAN'T --

18 MS. MACEOIN: OBJECTION, YOUR HONOR.

19 MS. NEWTON: -- REATTACH THE THUMB.

20 THE COURT: WHAT IS THE OBJECTION?

21 MS. MACEOIN: THE THUMB IS NOT GONE, YOUR
22 HONOR.

23 THE COURT: THIS IS A HYPOTHETICAL.

24 MS. MACEOIN: CERTAINLY.

25 BY MS. NEWTON:

1 Q. SO IN THAT CASE, YOU ARE GOING TO LOOK AT WHAT
2 THAT LOSS IN VALUE TO THE CAVALRYMAN IS FOR -- FOR NOW
3 THAT THE THUMB IS MISSING AND GONE, CORRECT?

4 A. CORRECT.

5 Q. AND WHAT I ASKED YOU WAS: IS WHAT YOU ARE
6 SAYING THAT IN THAT SITUATION, THE INSURANCE COMPANY
7 WOULD ONLY HAVE TO PAY \$130?

8 A. NO, I DON'T KNOW WHAT THAT AMOUNT WOULD BE. I
9 MEAN --

10 Q. BECAUSE WE ARE LOOKING --

11 A. -- IT'S A WHOLE PROCESS THAT WOULD BE INVOLVED
12 IN GOING THROUGH TO DETERMINE THAT NUMBER.

13 Q. AND WE ARE LOOKING --

14 A. SO I DON'T --

15 THE COURT: LET HIM FINISH.

16 THE WITNESS: I DON'T KNOW.

17 BY MS. NEWTON:

18 Q. AND WE ARE LOOKING AT -- JUST TO MAKE SURE I
19 UNDERSTAND YOUR ANSWER, BECAUSE IN THIS CASE WE ARE
20 LOOKING AT A KNOWN QIN DYNASTY TERRACOTTA WARRIOR,
21 CORRECT?

22 A. YES.

23 Q. THERE IS NO QUESTION ABOUT THE AUTHENTICITY OF
24 THIS FIGURE, RIGHT?

25 A. YES.

1 Q. WE ARE LOOKING AT A LIFE-SIZE FIGURE FROM THE
2 TOMB OF THE FIRST EMPEROR OF CHINA, RIGHT?

3 A. RIGHT.

4 Q. ALL OF THESE THINGS, AS YOU STATED EARLIER,
5 SHOULD BE TAKEN INTO CONSIDERATION WHEN COMING UP WITH
6 THAT VALUE; IS THAT RIGHT?

7 A. YES.

8 MS. NEWTON: YOUR HONOR, I HAVE NO
9 FURTHER QUESTIONS.

10 THE COURT: ANY REDIRECT?

11 MS. MACEOIN: JUST BRIEFLY, YOUR HONOR.

12 REDIRECT EXAMINATION

13 BY MS. MACEOIN:

14 Q. MR. MASON, YOU HAVE BEEN ASKED A LOT OF
15 QUESTIONS ABOUT THIS MISSING THUMB --

16 A. YES.

17 Q. -- AND INSURANCE PURPOSES, CORRECT?

18 A. YES.

19 Q. ARE YOU AWARE THAT THERE'S BEEN NO INSURANCE
20 CLAIM MADE BY THE CHINESE GOVERNMENT?

21 A. I WAS NOT AWARE.

22 Q. ALSO, YOU ARE AWARE THE THUMB IS BACK, CORRECT?

23 A. YES.

24 Q. IT IS CONTAINED. YOU HAVE SEEN THE PICTURES,
25 CORRECT?

1 A. YES.

2 Q. AND IT HAS BEEN RETURNED TO CHINA?

3 A. YES.

4 Q. ALONG WITH THE ORIGINAL TERRACOTTA WARRIOR?

5 A. THAT'S WHAT I UNDERSTAND.

6 Q. OKAY. MS. NEWTON ASKED YOU A LOT ABOUT THE SIZE
7 OF THE COMPARABLES THAT YOU HAVE IN YOUR REPORT.

8 A. YES.

9 Q. OKAY. FOR THE FIRST SECTION OF COMPARABLES THAT
10 YOU HAVE, THESE ARE INTACT ITEMS THAT HAVE BEEN RESTORED
11 OR REPAIRED, CORRECT?

12 A. CORRECT.

13 Q. AND AGAIN, THE PURPOSE OF YOUR EVALUATION WAS
14 NOT THE TERRACOTTA WARRIOR AS A WHOLE, CORRECT?

15 A. CORRECT.

16 Q. IT WAS FOR THE THUMB?

17 A. CORRECT.

18 Q. AND YOUR DETERMINATION OF \$1,000 IS BASED ON IF
19 THAT THUMB LANDED IN YOUR OFFICE AND SOMEONE SAID I WANT
20 TO PUT ON THIS MARKET, HOW MUCH COULD I GET FOR IT?

21 A. RIGHT. AND TRYING TO FIGURE OUT WHAT WOULD THE
22 MARKET BE, WHO IS LIKELY TO BUY IT, WHAT IS -- WHAT ARE
23 THE IMPEDIMENTS TO SALE, AND WHAT IS THE LIKELY OUTCOME.

24 Q. AND ALL THOSE ARE WHAT WENT INTO YOUR FINAL
25 DETERMINATION AND YOUR ESTIMATE, YOUR APPRAISAL OF

1 \$1,000, CORRECT?

2 A. YES.

3 MS. MACEOIN: I DON'T HAVE ANY OTHER
4 QUESTIONS, YOUR HONOR.

5 THE COURT: ANY OTHER QUESTIONS?

6 MS. NEWTON: YES, YOUR HONOR. THANK YOU.

7 RE CROSS EXAMINATION

8 BY MS. NEWTON:

9 Q. AND IN LOOKING AT THAT AND COMING UP WITH THIS
10 FINAL NUMBER, MR. MASON, YOU ALSO DID SOME OTHER
11 COMPARISONS, DIDN'T YOU? AS A HISTORICAL CURIOSITY?

12 A. YES.

13 Q. SO YOU COMPARED THE THUMB OF THE CAVALRYMAN TO A
14 VIAL OF DIRT FROM YANKEE STADIUM, RIGHT?

15 A. ONLY IN THE SENSE THAT ONCE YOU REMOVE THE
16 ARTISTRY, ONCE YOU TAKE AWAY THE EXTRAORDINARY
17 IMPORTANCE OF THE FIGURES AS A WHOLE TO THAT ONE SITE,
18 AND YOU START DIVIDING IT UP INTO LITTLE SEGMENTS, THOSE
19 LITTLE SEGMENTS HAVE LOST THE MEANING THAT THAT WHOLE
20 HAS.

21 Q. SO YOUR ANALOGY WAS A VIAL OF DIRT FROM YANKEE
22 STADIUM IS --

23 A. I THINK THAT'S INSULTING, BUT FROM MY
24 PERSPECTIVE AS A CHINESE EXPERT, THE ANALOGY TO YANKEE
25 STADIUM IS BECAUSE OF THE PASSIONATE YANKEE FANS THAT

1 ARE OUT THERE THAT WOULD BE VERY OFFENDED CALLING
2 THAT -- YOU KNOW, MAKING THAT KIND OF ASPERSION. SO
3 IT'S A -- YOU KNOW, TO THEM, THAT'S HALLOWED GROUND.

4 THIS IS THE SAME KIND OF THING TO THE
5 CHINESE. THAT IS THE ASSOCIATION THAT I AM MAKING, OF
6 SOMETHING THAT IS -- PEOPLE ARE PASSIONATE ABOUT AS
7 YANKEE SUPPORTERS, WHICH I AM. AND I AM PASSIONATE
8 ABOUT QIN SHI HUANG'S TOMB. IT'S AN IMPORTANT PLACE AND
9 TO GO THROUGH AND CHOP IT UP IS OFFENSIVE.

10 Q. YOU ARE SAYING TO CHOP OFF THE THUMB IS
11 OFFENSIVE?

12 A. NO. I AM SAYING THAT THE VALUATION
13 STRATEGY -- I WAS POINTING OUT HOW DIFFICULT THIS IS TO
14 ESTABLISH VALUE ON SMALL PIECES OF THINGS FROM AN
15 ARTICLE THAT IS SUPPOSED TO BE VALUED AS A WHOLE. THAT
16 IS THE WAY YOU HAVE TO LOOK AT IT. THAT IS WHY THINGS
17 ARE RESTORED. THAT'S WHY IT DOESN'T MATTER UP TO A
18 DEGREE HOW MUCH RESTORED MATERIAL IS INTRODUCED, BECAUSE
19 IT IS THE ESSENCE THAT MATTERS OF THE IMPORTANCE OF THIS
20 TO THE CHINESE PEOPLE.

21 Q. WELL, MR. MASON, ARE YOU AWARE THAT THE CHINESE
22 ARE NOT PERMITTED TO PUT A COMPLETELY NEW THUMB ONTO ONE
23 OF THE TERRACOTTA WARRIORS?

24 A. WELL, THEY HAVE INTRODUCED OTHER NEW MATERIAL TO
25 OTHER FIGURES BECAUSE -- AND FROM WHAT I CAN TELL ON

1 THIS, CERTAINLY TO THIS FIGURE BASED ON THE IMAGES,
2 BECAUSE OF THE IMPORTANCE OF THE FIGURE OVERALL AS A
3 SYMBOL TO CHINA IS MORE VALUABLE THAN THE INTRODUCTION
4 OF SMALL AMOUNTS OF OTHER MATERIAL --

5 Q. MR. MASON --

6 A. -- THAT IS ACCEPTABLE.

7 Q. MY QUESTION WAS: ARE YOU AWARE THAT THE CHINESE
8 ARE NOT PERMITTED TO PUT A NEW THUMB ONTO THE
9 CAVALRYMAN?

10 MS. MACEOIN: OBJECTION, YOUR HONOR.
11 ASKED AND ANSWERED.

12 MS. NEWTON: I DON'T BELIEVE HE ANSWERED
13 THE QUESTION.

14 THE COURT: I THINK HE HAS ANSWERED IT
15 PREVIOUSLY. SUSTAINED.

16 BY MS. NEWTON:

17 Q. I MEANT NO DISRESPECT TO YANKEE FANS, BUT I AM
18 LOOKING AT YOUR REPORT WHEN YOU ARE COMPARING, IF I
19 UNDERSTAND THIS CORRECTLY, DIRT FROM YANKEE STADIUM --

20 MS. HENRY: OBJECTION.

21 THE WITNESS: I MEANT IN A HALLOWED WAY.

22 BY MS. NEWTON:

23 Q. AND WHEN YOU TALK ABOUT A FRAGMENT OF WALLPAPER
24 FROM THE WHITE HOUSE, IS THAT ALSO IN A HALLOWED WAY?

25 A. IN A HALLOWED WAY, YES.

1 Q. AND THE PART OF ONE BRICK -- PART OF ONE BRICK
2 FROM THE GREAT WALL OF CHINA, THAT IS MEANT IN A
3 HALLOWED WAY?

4 A. ABSOLUTELY, YES.

5 Q. YOU ARE COMPARING A PART OF ONE BRICK OUT OF
6 MANY, MANY, MANY BRICKS IN THE GREAT WALL OF CHINA,
7 RIGHT, TO -- AND THAT'S THE SAME -- THAT IS CONSIDERED
8 THE SAME TO YOU AS THE THUMB THAT'S MISSING FROM THIS
9 ONE -- CLASS 1 RELIC?

10 A. NO, THEY ARE DIFFERENT OBJECTS. THEY ARE IN
11 DIFFERENT LOCATIONS. THEY HAVE DIFFERENT MEANING. THE
12 ONE, THE WALL IS SYMBOLIC OF CHINESE TERRITORIAL
13 BOUNDARIES THAT THEY HAVE HELD IN PLACE AT THE EXTREME,
14 YOU KNOW, AGGRESSION BY OTHER COUNTRIES OVER THOUSANDS
15 OF YEARS. IT IS AN IMPORTANT SYMBOL.

16 Q. AND YOU ARE --

17 A. AND TERRACOTTA WARRIORS ARE AN IMPORTANT SYMBOL.
18 JUST LIKE THE WHITE HOUSE IS AN IMPORTANT SYMBOL.

19 Q. BUT YOUR ANALOGY, MR. MASON, IF I UNDERSTAND YOU
20 CORRECTLY, IS THAT FOR THE THUMB OF THIS ONE CAVALRYMAN,
21 YOU ARE SAYING THAT'S LIKE A PART OF ONE -- A PART OF
22 ONE BRICK FROM THE WHOLE GREAT WALL OF CHINA?

23 A. MEANING THAT THE WHOLE HAS VALUE THAT IS
24 SYMBOLIC. THE CAVALRYMEN HAVE A SYMBOLIC MEANING, BUT
25 THEY HAVE AN ARTISTIC MEANING THAT IS OF THE WHOLE, NOT

1 FRAGMENTS TAKEN FROM IT. WHEN YOU TAKE FRAGMENTS FROM
2 IT, THOSE ENTER INTO THE WORLD OF COLLECTABLES. THAT IS
3 A DIFFERENT AUDIENCE FROM THE AUDIENCE THAT I WORK WITH
4 AND MY PROFESSIONAL FRIENDS WORK WITH. I WOULD NOT OWN
5 SOMETHING LIKE THAT. MUSEUMS WOULD NOT DISPLAY
6 SOMETHING LIKE THAT. THERE IS NO COMMERCIAL MARKET FOR
7 THINGS LIKE THAT.

8 Q. SO THERE IS NO MARKET VALUE FOR SOMETHING LIKE
9 THAT?

10 A. THERE IS A VERY LITTLE MARKET VALUE.

11 Q. AND THERE IS NO MARKET FOR SOMETHING LIKE THAT,
12 A PIECE THAT COMES FROM ONE OF THE TERRACOTTA WARRIORS,
13 IS THERE?

14 A. NO, I DON'T THINK SO.

15 MS. NEWTON: NO MORE QUESTIONS, YOUR
16 HONOR.

17 MS. MACEOIN: I HAVE NO FURTHER
18 QUESTIONS, YOUR HONOR.

19 THE COURT: THANK YOU, SIR. YOU MAY STEP
20 DOWN. WE'RE GOING TO TAKE A RECESS.

21 (WITNESS EXCUSED.)

22 (JURY OUT.)

23 THE COURT: WE ARE GOING TO TAKE A
24 TEN-MINUTE RECESS.

25 (RECESS TAKEN.)